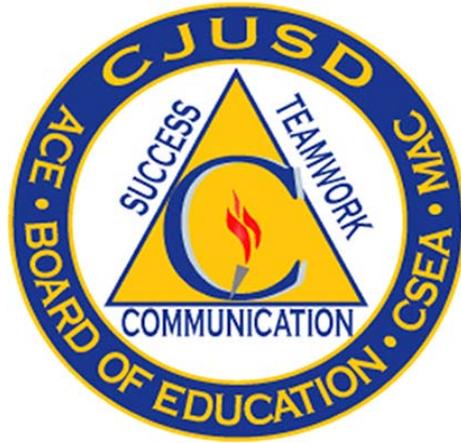


Colton Joint Unified School District

Student Services Center, Board Room, 851 South Mt. Vernon Ave., Colton, CA 92324



Board of Education Regular Meeting

Thursday, November 18, 2010
at 5:30 p.m.

Strategic Plan – Mission Statement

The Mission of the Colton Joint Unified School District, a team of caring employees dedicated to the education of children, is to ensure each student learns the academic knowledge and skills necessary to thrive in college or in the workforce and be responsible, productive citizens by providing engaging, challenging, and enriching opportunities and specialized programs in a safe environment in partnership with students, families and our diverse communities.

1.0 OPENING

1.1 Call to Order

- Mr. Mel Albiso, President
- Mr. Frank A. Ibarra, Vice President
- Mr. David R. Zamora, Clerk
- Mr. Robert D. Armenta Jr.
- Mrs. Patt Haro
- Mrs. Marge Mendoza-Ware
- Mr. Kent Taylor

- Mr. Jerry Almendarez
- Mr. Jaime R. Ayala
- Mr. James A. Downs
- Mrs. Mollie Gainey-Stanley
- Mrs. Ingrid Munsterman
- Mr. Mike Snellings
- Mrs. Bertha Arreguín
- Mr. Todd Beal

- Mr. Brian Butler
- Mrs. Jennifer Jaime
- Ms. Helen Rodriguez
- Ms. Sosan Schaller
- Mr. Darryl Taylor
- Ms. Katie Orloff
- Ms. Jennifer Rodriguez

1.2 Renewal of the Pledge of Allegiance.

An interpreter is available for Spanish-speaking persons wanting assistance.

2.0 SPECIAL PRESENTATIONS

2.1 Board Member Appreciation

- Mel Albiso
- Marge Mendoza-Ware
- David Zamora

3.0 SCHOOL SHOWCASE

3.1 Slover Mountain High School

4.0 ADMINISTRATIVE PRESENTATIONS

4.1 Energy Storage Facility – Jaime R. Ayala, Assistant Superintendent, Business Services Division

5.0 PUBLIC HEARING ~None~

6.0 PUBLIC COMMENT

6.1 Announcement Regarding Public Comment for Items on the Agenda and Items Not on the Agenda (Gov. Code 54954.3[a])

The Board President clarifies the process regarding public comment and requests that the appropriate “Public Comment Card” be filled out. At the appropriate time during the Hearing Session, each speaker will be invited to the podium and should begin by stating his or her name and residing city. Board Bylaw 9323 states that *“Individual speakers shall be allowed three minutes to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 15 minutes. With Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add.”*

Blue card—Specific Consent, Action, Study & Information or Closed Session Item: Please list the specific agenda item number and subject
White card—Items/Topics Not on the Agenda: Please list topic / subject

7.0 ACTION SESSION

A. Consent Items

The following Consent Items are expected to be routine and non-controversial. They will be acted upon by the Board of Education at one time unless a Board Member, a staff member, or a member of the public requests that an item be held for discussion or deferred for separate action.

On motion of Board Member _____ and _____, the Board approved Consent Items #A – 1 through #A – 9, as presented.

- Page 7 A-1 Approval of the November 4, 2010, Regular Meeting Minutes
- Page 21 A-2 Approval of Student Field Trips
- Page 23 A-3 Approval of Consultant for Assembly Presentation
- Page 27 A-4 Approval of Bloomington Middle School’s Revised Single Plan for Student Achievement and Allocation of Title I Funds (2010-11)
- Page 37 A-5 Approval to Renew One-Year Computer Program License Agreement with SkillsTutor to Provide Supplemental Instruction and Tutoring Services for Elementary School Students (2010-11)
- Page 45 A-6 Approval of Agreement with the Regents of the University of California, Riverside to Participate in the Mathematics, Engineering, Science Achievement (MESA) Program at Colton Middle School and Terrace Hills Middle School (2010-11)
- Page 55 A-7 Acceptance of Gifts
- Page 57 A-8 Approval of Amendment No. 2 of Agreement No. 06/07-0144 – San Bernardino County Superintendent of Schools
- Page 63 A-9 Approval of Right of Entry Agreement - Baseball Field Access Between Colton Joint Unified School District and City of Grand Terrace and the Community Redevelopment Agency of the City of Grand Terrace

B. Action Items

- Page 75 B-1 Approval of Personnel Employment and Resignations
- Page 77 B-2 Approval of Conference Attendance
- Page 79 B-3 Approval to Assign Teacher Under CA Commission on Teacher Credentialing Variable Term Waiver (2010-11)
- Page 81 B-4 Approval of Purchase Orders
- Page 85 B-5 Approval of Disbursements
- Page 87 B-6 Adoption of Resolution No. 11-13 Authorizing the Execution and Delivery of a Site Lease, Sublease Agreement and Construction Services Agreement and Other Acts Relating to the Construction of the Colton High School Math & Science Building Project
- Page 187 B-7 Adoption of Resolution No. 11-18 Giving Notice of Intention to Grant An Easement For Right of Way to Southern California Edison for the Joe Baca Middle School Project
- Page 197 B-8 Adoption of Resolution No. 11-20 Authorizing Signatories for State School Facilities Program, Documentation, and CEQA Officers
- Page 201 B-9 Adoption of Resolution No. 11-22 One Year Joint Use Agreement Between the Colton JUSD and the City of Fontana for Playfields at Michael D’Arcy Elementary School (2010-11)
- Page 205 B-10 Adoption of Resolution No. 11-23 One Year Joint Use Agreement Between the Colton JUSD and the City of Fontana for Playfields at Jurupa Vista Elementary School (2010-11)

Colton Joint Unified School District

Board Meeting Agenda – November 18, 2010

- Page 209 B-11 Adoption of Resolution No. 11-24 One Year Joint Use Agreement for Facility Use Between the Colton JUSD and the City of Fontana for After School Enrichment Programs at D’Arcy, Jurupa Vista, and Sycamore Hills Elementary School (2010-11)
- Page 223 B-12 Adoption of Resolution No. 11-25 One Year Joint Use Agreement for Facility Use Between the Colton JUSD and the City of Fontana for ASES Grant Funded After School Enrichment Programs at Crestmore, Smith, and Zimmerman Elementary School (2010-11)
- Page 241 B-13 Approval of Agreement Between the City of Rialto and Colton Joint Unified School District for the Design and Construction of a New Traffic Signal at Valley Boulevard/Cactus Avenue Intersection at Joe Baca Middle School
- Page 251 B-14 Approval of Reduction in or Partial Release of Retainage for JPI Development Group, Inc. (Bid Package No. 15) for the Grand Terrace High School Project
- Page 259 B-15 Approval of Resolution No. 11-21 Authorizing Participation in the South Coast Air Quality Management District’s (SCAQMD) Proposition 1B School Bus Retrofit Grant for Lower-Emission Particulate Matter (PM) Trap Retrofit Program

C. Action Items – Board Policy ~ *Second Reading*

- Page 267 C-1 Approval of Adoption of Board Policies and Administrative Regulations:
BP 2000 Series Administration

D. Action Items – Resolutions ~*None*

8.0 ADMINISTRATIVE REPORTS

- Page 271 AR-8.1 Approved Change Orders for the Bloomington High School New Math & Science Building Increment One: Demolition & Rough Grading Project (Project 1E) per Board Resolution No. 10-20
- AR-8.2 Budget Update – Jaime R. Ayala
- AR-8.3 Facilities Update – Jaime R. Ayala
- AR-8.4 Budget Subcommittee Update
- AR-8.5 Curriculum Subcommittee Update
- AR-8.6 Facilities Subcommittee Update
- AR-8.7 ACE Representative
- AR-8.8 CSEA Representative
- AR-8.9 MAC Representative
- AR-8.10 ROP Update

9.0 SUPERINTENDENT’S COMMUNIQUE

10.0 BOARD MEMBER COMMENTS

11.0 CLOSED SESSION

Following action items: Board Room, Student Services Center, 851 So. Mt. Vernon Ave., Colton, California (Government Code 54950 et seq.)

11.1 **Student Discipline, Revocation, and Re-entry**

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11.2 **Personnel**

- ◆ Public Employee: Discipline/Dismissal/Employment/Release/Assignment/Reassignment (Gov. Code 54957)

11.3 **Conference with Legal Counsel—Anticipated Litigation**

Significant exposure to litigation pursuant to Government Code Section 54956.9(b)
Potential Case: *None*

11.4 Conference with Legal Counsel—Existing Litigation

Pursuant to Government Code Section 54956.9(a)

Name of Case: Rael/Davidson v. Colton Joint Unified School District, et al.

Case No.: CIVSS707715

11.5 Conference with Labor Negotiator

Agency:

Ingrid Munsterman, Assistant Superintendent, Human Resources Division

Employee Organizations:

Association of Colton Educators (ACE)

California School Employees' Assoc. (CSEA)

Management Association of Colton (MAC)

11.6 Conference with Real Property Negotiator (Gov. Code 54956.8)

Property: *~None~*

District Negotiators: Jerry Almendarez, Jaime R. Ayala, Darryl Taylor,
Counsel, Best, Best & Krieger

12.0 PUBLIC SESSION – ACTION REPORTED FROM CLOSED SESSION

13.0 ADJOURNMENT

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

CONSENT ITEM

TO: Board of Education

PRESENTED BY: Jerry Almendarez, Superintendent

SUBJECT: Approval of November 4, 2010 Meeting Minutes

GOAL: Student Performance, Personnel Development, Facilities/Support Services, Budget Planning, School Safety & Attendance, Community Relations, & Parent Involvement

STRATEGIC PLAN: Strategy #1 – Communication Strategy #4 – Facilities
Strategy #2 – Curriculum Strategy #5 – College Career
Strategy #3 – Decision Making Strategy #6 – Character

RECOMMENDATION: That the Board approve the November 4, 2010 meeting minutes.

Colton Joint Unified School District

Student Services Center, Board Room, 851 South Mt. Vernon Ave., Colton, CA 92324



Minutes November 4, 2010

The Board of Education of the Colton Joint Unified School District met for a Regular Meeting and Public Hearing on Thursday, November 4, 2010 at 5:32 p.m. in the Board Room at the CJUSD Student Services Center, 851 So. Mt. Vernon Avenue, Colton, California.

Trustees Present

Mr. Mel Albiso	President
Mr. Frank A. Ibarra	Vice President
Mr. David R. Zamora	Clerk
Mr. Robert D. Armenta Jr.	
Mrs. Patt Haro	
Mrs. Marge Mendoza-Ware	(excused at 7:27 p.m.)
Mr. Kent Taylor	

Staff Members Present (*excused)

Mr. James A. Downs	Mrs. Jennifer Jaime
Mr. Jerry Almendarez	Mrs. Ingrid Munsterman
Mr. Jaime R. Ayala	Mrs. Helen Rodriguez
Mrs. Mollie Gainey-Stanley	Ms. Sosan Schaller *
Mr. Mike Snellings	Mr. Darryl Taylor
Mrs. Bertha Arreguín *	Dr. Patrick Traynor *
Mr. Todd Beal	Ms. Katie Orloff
Mr. Brian Butler	Ms. Jennifer Rodriguez

Strategic Plan -- Mission Statement

The Mission of the Colton Joint Unified School District, a team of caring employees dedicated to the education of children, is to ensure each student learns the academic knowledge and skills necessary to thrive in college or in the workforce and be responsible, productive citizens by providing engaging, challenging, and enriching opportunities and specialized programs in a safe environment in partnership with students, families and our diverse communities

1.0 OPENING Call to Order/Renewal of the Pledge of Allegiance

Board President Albiso called the meeting to order at 5:32 p.m. Board Member Zamora led in the renewal of the Pledge of Allegiance. Cadet Lieutenant Commander Thornton, Cadet Ensign Pena-Lopez, Cadet Lieutenant Valenzuela and Cadet Seaman Recruit Cardoza of the Colton High School NJROTC presented the Presentation of Colors.

2.0 SPECIAL PRESENTATIONS

The board consented to move Action Items B-13 and D-2 forward for approval.

#288 On motion of Board Member Mendoza-Ware and Board Member Taylor and carried on a 7-0 vote, the Board approved Action Item B-13 as presented.

#288.1 B-13 Awarded Veterans Diploma to Randall Ray Strawn and Daniel C. Zamorano in accordance with Board Policy 6146.12

#289 On motion of Board Member Mendoza-Ware and Board Member Zamora and carried on a 7-0 vote, the Board approved Action Item D-2 as presented.

#289.1 D-2 Adoption of Resolution No. 11-16, *Designation of November as Honorary Veterans' Month*

2.1 Veterans' Month Recognition

In honor of war veterans who served in the United States Armed Forces, the Board of Education recognized Commander Ernie Vasquez and Senior Vice Commander Rudy Guzman of VFW Post 8737 for answering the call of duty and defending our nation to preserve the freedoms and liberties enjoyed today. They also recognized Ms. Annie Tuttle representing veterans of VA Loma Linda Healthcare System, whose courage and bravery are constant reminders of this country's democratic ideals.

2.2 Veterans Diploma

The Board of Education retroactively granted high school diplomas to Mr. Daniel C. Zamorano and Mr. Randall Ray Strawn who left Colton High School prior to completing their high school course of study to protect our nation by joining the military and fighting for the Nation's freedom during the Korean and Vietnam Wars, respectively.

2.3 Employee and Education Partner Recognition.

Francisca LaFranco was recognized as the Certificated Employee of the Month for October. Ms. LaFranco is a Special Education teacher at Grand Terrace Elementary and was honored by Assistant Principal Kathy Walck. Ms. LaFranco is known as one of the most veteran special education teachers in the district with more than 19 years experience. She is an amazing teacher who is dedicated to the success of her students.

Frances Frost was recognized by Superintendent Downs as the Management Employee of the Month for October. Mrs. Frost is the executive assistant to Superintendent Downs. Serving in this capacity she is an extension of his ideas and beliefs and is responsible for representing them in her daily duties. By incorporating the honest virtues of respect, responsibility, caring and trustworthiness into her everyday contact with employees, parents, and students, Superintendent Downs commented that Frances rightfully possess the qualities worthy of Employee of the Month.

Tamara Holder, California State University San Bernardino, was awarded the Education Partner of the Month recognition by Principal Mike Williford and Angel Delgado, teacher. As the coordinator of the Cross Cultural Center at CSUSB, Ms. Holder has arranged for students from Lincoln, Sycamore Hills and Wilson Elementary Schools to participate in Native American Week festivities for the past eight years.

3.0 SCHOOL SHOWCASE

3.1 Colton High School

Vanessa Gongora, ASB President and Kristopher Holland, ASB Vice President, presented Colton High School's school report. In the months of September and October, CHS has hosted several student activities including senior and freshmen class assemblies, leadership camp, senior parent meeting, Breast Cancer Awareness Month, Red Ribbon Week, homecoming week, a choir concert and the project kick-off event for the new math & science buildings.

Current and upcoming projects include raising their CST score by 22 points, STEP UP, Character Counts Program, Fall Food Drive (a 3rd period class competition), fall play "The Dining Room," Veteran's Day celebration, volunteer opportunity to serve the city of Colton, winter sports (wrestling, soccer, and basketball) and finally the end of the 1st semester.

Vanessa and Kristopher announced that they look forward to their next school report in 2011.

4.0 ADMINISTRATIVE PRESENTATIONS

4.1 Special Education Audit Update

Assistant Superintendent Snellings introduced Dr. Caryol Miller, Total School Solutions (TSS), who provided an update of the Special Education Audit as requested and approved by the Board of Education.

During the audit, Dr. Miller and TSS associates reviewed the Pupil Personnel Services Department, with a special focus on the organizational structure, management practices, site level service providers and support staff. They analyzed and compiled data and conducted interviews with classified, certificated and management staff. Although not finalized, the findings of the audit indicate areas of concern and provide recommendations for the district to implement.

Assistant Superintendent Snellings concluded that as a result of the audit, he will be working with PPS Director Helen Rodriguez on an action plan. Mr. Snellings will update the board on the implementation of the action plan on a regular basis.

5.0 PUBLIC HEARING

5.1 B-6 Adoption of Resolution No. 11-12 to Adopt Level 2 and 3 School Fees for New Residential Construction

Board President Albiso opened the public hearing at 6:28 p.m. No one spoke to the item and the public hearing was closed at 6:29 p.m.

6.0 PUBLIC COMMENT

6.1 Blue card—Specific Consent, Action, Study & Information or Closed Session Item

- Karen Houck, ACE President, questioned the District's appointment versus employment practice.
- Gil Navarro, education advocate, commented on the Special Education audit and requested a copy of the finalized report.
- **White card—Items/Topics Not on the Agenda:**
 - Ernesto Calles, principal, Wilson Elementary School, announced Wilson's upcoming Veterans' Day celebration on November 9th at 8:30 a.m. and invited all to attend. He also thanked President Albiso for the donation of a musical instrument.
 - Terry Radney, employee, expressed concerns for the district's procedures regarding autism certification.
 - Elsa Aguilar, Agua Mansa PTA, spoke in support of PTA within the Colton Joint Unified School District.
 - Christine Irish-Re, community member, commented on the youth football league.

At 6:42p.m., the board unanimously consented to recess to closed session and discuss the following items on the closed session agenda:

12.4 Conference with Labor Negotiator

The Board meeting reconvened at 7:21 p.m. and the following action took place.

#290 On motion of Board Member Taylor and Board Member Haro and carried on a 7-0 vote, the Board approved Action Item E-1 as presented.

#290.1 E-1 Approved Addendum to Superintendent Downs' Employment Agreement

#291 On motion of Board Member Taylor and Board Member Albiso and carried on a 5-2 (Board Members Armenta and Haro voted in opposition) vote, the Board approved Action Item E-2 as presented.

#291.1 E-2 Approved Superintendent's Employment Agreement

#292 On motion of Board Member Albiso and Board Member Zamora and carried on a 7-0 vote, the Board approved Action Item E-3 as presented.

#292.1 E-3 Approved Assistant Superintendent, Human Resources Division, Employment Agreement

At 7:27p.m. the board announced a brief recess. The meeting reconvened at 7:31 p.m.

Board President Albiso, on behalf of the Board of Education, presented Superintendent Downs with a plaque of appreciation for his years of service and successful leadership. He announced that, beginning November 5th, Superintendent Downs will serve the district as the Superintendent Emeritus until his retirement in June 2011.

7.0 ACTION SESSION

A. Consent Items

#293 On motion of Board Member Zamora and Board Member Taylor and carried on a 5-0-1-1 (Board President Albiso abstained and Board Member Mendoza-Ware was absent from the vote), vote, the Board approved Consent Items A-1 through A-12.

#293.1 A-1 Approved of the October 7, 2010, Regular Meeting Minutes

#293.2 A-2 Approved Membership Renewal for the Grand Terrace Area Chamber of Commerce (November 2010 through November 2011)

#293.3 A-3 Approved Student Field Trips (EXHIBIT A)

#293.4 A-4 Approved Consultant for Assembly Presentation (EXHIBIT B)

#293.5 A-5 Approved the Bloomington High School Agricultural Program Advisory Committee By-Laws, Membership and the Minutes from the September 2, 2010 Meeting

#293.6 A-6 Approved the Bloomington High School Future Farmers of America (FFA) Agricultural Program of Work for (2010-11)

#293.7 A-7 Approved Bloomington High School Winter Formal (December 11, 2010)

#293.8 A-8 Approved Consultant Services with San Bernardino County Superintendent of Schools to Provide One Additional Professional Development Day for Terrace Hills Middle School (2010-11)

- #293.9 A-9 Approved the Grant Program Services Agreement Between the Colton Joint Unified School District and Think Together, Inc. for the After School Educational and Safety Program Services for Title I Schools: Birney, Grant, Grimes, Lewis, Lincoln, McKinley, Rogers and Wilson Elementary Schools (November 5, 2010 – June 30, 2013)
- #293.10 A-10 Accepted of Gifts (EXHIBIT C)
- #293.11 A-11 Approved Parent and/or Booster Clubs and Organizations (2010-11)
- #293.12 A-12 Approved to Open an Escrow Account for the Deposit of Earned Retentions for Suffolk Construction Company, Inc. on the Joe Baca Middle School Project

B. Action Items

#294 On motion of Board Member Zamora and Board Member Taylor and carried on a 5-0-1-1 (Board President Albiso abstained and Board Member Mendoza-Ware was absent from the vote), vote, the Board approved Action Items B-1 through B-12.

- #294.1 B-1 Approved Personnel Employment and Resignations (EXHIBIT D)
- #294.2 B-2 Approved Conference Attendance (EXHIBIT E)
- #294.3 B-3 Approved Purchase Orders
- #294.4 B-4 Approved Disbursements
- #294.5 B-5 Approved to File a Notice of Completion for Bid #10-03 for Bloomington High School New Math & Science Building Increment One: Demolition & Rough Grading Project - AMPCO Contracting, Inc.
- #294.6 B-6 Adopted Resolution No. 11-12, Approving a School Facilities Needs Analysis and Adopting Alternative School Facility Fees in Compliance with Government Code Sections 65995.5, 65995.6 and 65995.7 and Making Related Findings and Determinations (Level 2 & 3 Fees)
- #294.7 B-7 Adopted Resolution No. 11-17, Support of Qualified School Construction Bond Applications Authorization to Sign Application and Associated Documents
- #294.8 B-8 Ratified Agreement with Educational Resource Consultants (ERC) for Grant Writing Services (November 1, 2010 through June 30, 2011)
- #294.9 B-9 Ratified Contract Renewal for Services with School Facility Consultants (November 1, 2010 through October 31, 2011)
- #294.10 B-10 Approved Agreement with ATI Architects & Engineers for Architectural and Engineering Services for the Bloomington Middle School – Building N Alteration Project
- #294.11 B-11 Adopted Resolution No. 11-19, Authorizing the Issuance of Not to Exceed \$30,000,000 Aggregate Principal Amount of Colton Joint Unified School District General Obligation Refunding Bonds, Series 2010, Authorizing the Execution and Delivery of a Paying Agent Agreement, an Escrow Agreement, a Bond Purchase Agreement and a Continuing Disclosure Certificate and the Preparation of an Official Statement and Other Matters Related Thereto
- #294.12 B-12 Ratified Slover Mountain High School's Revised Single Plan for Student Achievement and Allocation of Title I Funds (2010-11)

C. Action Items – Board Policy – First Reading

#295 On motion of Board Member Taylor and Board Member Ibarra and carried on a 6-0-1 (Board Member Mendoza-Ware absent) vote, the Board approved Action Item C-1, Board Policy, as presented. This item will be presented on November 18th as a *Second Reading*.

- #295.1 C-1 Approved Adoption of Board Policies and Administrative Regulations:
BP 2000 Series Administration

D. Action Items – Resolutions

#296 On motion of Board Member Taylor and Board Member Zamora and carried on a 6-0-1 (Board Member Mendoza-Ware absent) vote, the Board approved Action Item D-1, *Resolutions*, as presented.

- #296.1 D-1 Adopted Resolution No. 11-14, in *Recognition of Congressman Joe Baca*

8.0 ADMINISTRATIVE REPORTS

AR-8.1 Quarterly Uniform Complaint Report Summary (July through September 2010)

AR-8.2 Approved Change Orders for the Fire Alarm/Low Voltage Upgrades at Jurupa Vista, Reche Canyon, Wilson Elementary Schools and Bloomington Middle School (Project 35) per Board Resolution No. 10-20

AR-8.3 Budget Update

Assistant Superintendent Ayala reported that staff is currently preparing the interim report which will be presented at the December 9th board meeting.

AR-8.4 Facilities Update

Facilities Director Darryl Taylor presented the Facilities Program Report (EXHIBIT F).

AR-8.5 Budget Subcommittee Update ~No Report~

AR-8.6 Curriculum Subcommittee Update ~No Report~

AR-8.7 Facilities Subcommittee Update ~No Report~

AR-8.8 ACE Representative

Karen Houck, ACE President, announced that ACE members are scheduled to attend various conferences and workshops focused on improving their skills as leaders. Mrs. Houck thanked current and outgoing board members for their service and wished all a Happy Thanksgiving.

AR-8.9 CSEA Representative

President Nick Ramirez congratulated Robert Armenta Jr., Randall Cenicerros and David Zamora on their successful campaigns. He also thanked Superintendent Downs and President Albiso for their years of services to the students, parents, community and especially CJUSD classified employees.

AR-8.10 MAC Representative

MAC President, Katie Orloff, announced two upcoming APPLE Scholarship fundraisers. MAC will host a holiday vendor fair on Wednesday, December 1st and Thursday, December 2nd. The second event will be the Ontario Reign hockey game on Saturday, February 12th at the Citizens Business Bank Arena. Lastly, Ms. Orloff thanked board members Albiso and Mendoza-Ware and Zamora for their dedication to the Colton Joint Unified School District.

AR-8.11 ROP Update ~No Report~

9.0 SUPERINTENDENT'S COMMUNICATION

Superintendent Downs highlighted recent events and activities throughout the District, which include Synergy Day (BHS), Character Traits field trip (D'Arcy), Armed Services Day (Slover Mountain), ESL classes (Crestmore), Science Information Night (Grant), Homecoming Parade (CHS) and the Fall Festival (Sycamore Hills). Mr. Downs also commented on the successful Groundbreaking event at Joe Baca Middle School and the Project Kick-off for Colton High School's math and science building. He congratulated Cooley Ranch Elementary for attaining perfect attendance and invited the audience to BHS's play, *Harvey*, on November 5th and 6th.

10.0 BOARD MEMBER COMMENTS

Board Member Taylor congratulated Board Members Elect Randall Cenicerros and Pilar Tabera, and Mayor Elect Zamora. He also congratulated Board Member Armenta on his re-election. Mr. Taylor thanked Superintendent Downs, crediting the District's rise in test scores to his leadership. He also commented on the newly appointed superintendent and assistant superintendent, Jerry Almendarez and Ingrid Munsterman, respectively. Mr. Taylor thanked President Albiso and Board Member Mendoza-Ware for their leadership and years of service to the District.

Board Member Haro commented on the following events that took place at district sites: Hispanic Heritage Carnival (McKinley), BHS's 10th Annual Futures Night, Hispanic Festival and Art Show (Lincoln), 13 Colonies Musical (Grimes), National Honor Society (CHS), GATE Night (BMS), Science Club (Crestmore), Fall Band Concert (THMS), Red Ribbon Week (Smith), Groundbreaking at Joe Baca Middle School, Halloween parade (Birney), Fall Festival (Zimmerman), Science Fair Night (Cooley Ranch, Grant), NJROTC competition at UCLA (BHS). Mrs. Haro reminded the district of her concerns for safety at the BHS football field and thanked Vanir and Seville for providing a tour of the GTHS site. She congratulated newly elected board members and commented on the appointment of Superintendent Almendarez and Assistant Superintendent Munsterman. Mrs. Haro thanked Superintendent Downs for his leadership on the Strategic Plan and for his dedication to the District.

Board Member Ibarra commented on the successful project kick-off event for Colton High School's Math and Science Building. He acknowledged CJUSD students who received the Congressman Joe Baca Hispanic Heritage Award and congrats new board members. Mr. Ibarra announced that he looks forward to continue working with Board Member Armenta and mayor elect Zamora. He expressed his confidence in the leadership ability of Jerry Almendarez and congratulated Ingrid Munsterman on her new position. In closing he acknowledged Superintendent Downs' loyalty to the District, commenting on his leadership and support.

Board Member Zamora thanked Board Members Albiso and Mendoza-Ware for their years of service to CJUSD. He congratulated Board Member Armenta and welcomed Board Members Elect Randall Cenicerros, Pilar Tabera and Roger Kowalski. Mr. Zamora thanked Superintendent Downs for his leadership and congratulated Jerry Almendarez and Ingrid Munsterman on their new positions as Superintendent and Assistant Superintendent. He also thanked Nick Ramirez and CSEA for their endorsement and hard work on mayoral campaign. Lastly, he thanked the members of district and community for supporting him over the past 13 years.

Board Member Armenta thanked Superintendent Downs for his leadership and commented on the success the district has accomplished under the superintendent's Strategic Plan. He congratulated newly appointed Superintendent Almendarez and Assistant Superintendent Ingrid Munsterman. Mr. Armenta also congratulated Colton Mayor Elect David Zamora and Board member Elect Randal Cenicerros. He also thanked all who contributed to his successful re-election campaign.

Board Member Albiso commented on his last five years on the board and the great accomplishments of the District. He thanked Board Member Zamora for influencing him to run for school board and thanked all who supported him. Lastly, President Albiso congratulated Superintendent Downs and newly appointed Superintendent Almendarez on their positions.

Following action items: Board Room, Student Services Center, 851 So. Mt. Vernon Ave., Colton, CA (Government Code 54950 et seq.)

11.0 CLOSED SESSION

At 8:55 p.m., Board President Albiso announced that the board would recess to closed session to discuss the following items on the closed session agenda:

- 11.1 • Student Discipline, Revocation and Re-entry
- 11.2 • Personnel
- 11.3 • Conference with Legal Counsel—Anticipated Litigation
- 12.5 • Conference with Real Property Negotiator

12.0 PUBLIC SESSION – ACTION REPORTED FROM CLOSED SESSION

The Board meeting reconvened at 9:07 p.m. Board President Albiso reported on action taken in closed session.

#297

12.1 Student Discipline, Revocation, and Re-entry

#297.1 On motion of Board Member Zamora and Board Member Armenta and carried on a 6-0-1 (Board Member Mendoza-Ware absent) vote, the board approved staff's recommendation for student discipline items #1-7, as presented.

- | | |
|-----------|-----------|
| 1. 122297 | 5. 159435 |
| 2. 110781 | 6. 126392 |
| 3. 68854 | 7. 125283 |
| 4. 152050 | |

12.2 Personnel ~No Report~

- ◆ Public Employee: Discipline/Dismissal/Employment/Release/Reassignment (Gov. Code 54957)

12.3 Conference with Legal Counsel—Anticipated Litigation ~No Report~

Significant exposure to litigation pursuant to Government Code Section 54956.9(b)
Potential Case: ~None~

12.4 Conference with Labor Negotiator ~No Report~

Agency:

Frank Ibarra, Vice President, Board of Education

Unrepresented Employee:

James A. Downs, Superintendent

Jerry Almendarez, Assistant Superintendent, Human Resources Division

Ingrid Munsterman, Director, Human Resources Division

12.5 Conference with Real Property Negotiator (Gov. Code 54956.8)

Property: ~None~

District Negotiators: James A. Downs, Jaime R. Ayala, Darryl Taylor,
Counsel, Best, Best & Krieger

14.1 ADJOURNMENT

At 9:08 p.m., the meeting was adjourned until the next Regular Board of Education Meeting on Thursday, November 18, 2010, at the Colton JUSD Student Services Center, 851 South Mt. Vernon Avenue, Colton, California.

EXHIBIT A, FIELD TRIPS:

Site	Date	Depart	Return	Destination	Activity/Background	Grade	Teacher	Cost	Funding	Strategic Plan*
*CHS	10/28/10 (Thurs.)	7 a.m.	8 p.m.	Jostens Yearbook Company Visalia, CA (District)	Students on the yearbook staff will tour the facility that produces the yearbook for Colton High School *Ratification-carried over from 10/21/10 cancelled Board Meeting	9-12	Lucas Drake (7)	\$200	SLI	Strategy #1
CHS	11/5/10 (Fri.)	8 a.m.	7 p.m.	San Diego State University San Diego, CA (District)	<i>Mira Mesa Invitational Band Competition</i>	9-12	Dr. Luis Gonzales (70) +15	\$3,600	ASB	Strategy #1
BHS	11/11/10 to 11/13/10 (Th/F/S)	8 a.m.	8 p.m.	Pilgrim Pines Camp Yucaipa, CA (District)	<i>2010 High Desert Section Leadership Conference</i> Students will participate in team building activities and planning.	9-12	Desiree Trapp (7) +1	\$1,700	ASB	Strategy #1
Terrace View	2/24/11 (Th)	7 a.m.	9 p.m.	Disneyland Anaheim, CA (District)	<i>Disney Leadership in Action: Pursuit of Excellence</i> Students will participate in building leadership skills and learn the importance of diversity.	5	Denise Green Kerrie Dietz Dawn Plumb (100) +23	\$7,940	Donations	Strategy #1
CHS	4/12/11 (Tues.)	7 a.m.	8 p.m.	Jostens Yearbook Company Visalia, CA (District)	Students on the yearbook staff will tour the facility that produces the yearbook for Colton High School.	9-12	Lucas Drake (7)	\$200	SLI	Strategy #1
Terrace View	4/14/11 to 4/15/11 (Th/F)	8:15 a.m.	10:30 a.m.	Ocean Institute Dana Point, CA (District)	<i>Before the Mast-Pilgrim</i> Students will participate in a hands-on history program.	4	Liese Harris (30) +4	\$3,180	ASB	Strategy #1

EXHIBIT B, CONSULTANTS FOR ASSEMBLY PRESENTATION

Site	Date(s)	Time	Program/Purpose	Location	Consultant(s)	Cost	Funds	Strategic Plan*
Smith	11/5/10	8:45 a.m.	<i>The Bully Game</i> Through the use of magic, John Abrams will work with students to better understand "bullying" and how to turn the situation around and stop it.	Smith	Amazing School Assemblies John Abram Anaheim Hills, CA	\$900	PTA	Strategy #1
Wilson	12/16/10	8:30 a.m. & 9:45 a.m.	<i>The Imagination Machine</i> Students will learn techniques to enhance creative writing skills.	Wilson	The Imagination Machine Costa Mesa, CA	\$1,000	Donations	Strategy #1
Grimes	5/20/11	8:30 a.m.	<i>Journey into the Serrano Culture</i> Students will be introduced to traditional Serrano culture and history in line with the California Content Standards.	Grimes	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$236	EIA	Strategy #1
Crestmore	6/1/11	7:45 a.m. 8:45 a.m. 9:45 a.m.	<i>The Imagination Machine</i> Students will learn techniques to enhance creative writing skills.	Crestmore	The Imagination Machine Costa, Mesa, CA	\$1,360	Title I	Strategy #1
Grimes	6/3/11	8:30 a.m.	<i>Starlab Planetarium</i> Students will participate in hands-on activities to reinforce science concepts.	Grimes	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$271	EIA	Strategy #1

EXHIBIT C, GIFTS:

Site	Donor	Donation/Purpose	Amount
Alice Birney	Baber Choudhry 1151 Bent Rail Circle Colton, CA 92324	Check #2270 Field Trip to Jensen Alvarado Ranch	\$38.00
Alice Birney	Lisa Haro 4775 East Pacific Coast Highway #302 Long Beach, CA 90804	Check #1296 Field Trip to Jensen Alvarado Ranch	\$38.00
Alice Birney	Natalie L. Nelsen 25607 Prospect Avenue Loma Linda, CA 92354	Check #2183 Field Trip to Jensen Alvarado Ranch	\$38.00
Alice Birney	Ana Peters 7196 Cataba Road Oak Hills, CA 92344	Check #676 Field Trip to Jensen Alvarado Ranch	\$38.00
Alice Birney	Ligia Puraci 28984 Bennett Court Highland, CA 92346	Check #1053 Field Trip to Jensen Alvarado	\$38.00
Colton High School	Ashley Furniture Industries, Inc. One Ashley Way Arcadia, Wisconsin 54612	Check #820757 Band	\$500.00
Colton High School	Edward & Linda Canalez 29267 Henderson Lane Highland, CA 92346	Check #3080 Band	\$100.00
Colton High School	Commercial Door Metal Systems, Inc. 14610 Central Avenue Chino, CA 91710	Check #2533 Band	\$100.00
Colton High School	Committee to Elect David Zamora Mayor 2010 645 North La Cadena Colton, CA 92324	Check #162 Boys Baseball	\$250.00
Colton High School	Oleta's Distribution 417 North F Street San Bernardino, CA 92407	Check #2869 Boys Soccer	\$300.00
Crestmore	Chase 1301 2 nd Avenue Seattle, WA 98101	Check #2416168061	\$113.76
District Office	James A. Downs 1212 Valencia Drive Colton, CA 92324	Check #117	\$145.75
Grant Elementary	Target P.O. Box 59214 Minneapolis, MN 55459-0214	Check #2175114	\$182.03
Paul J. Rogers	Lifetouch National School Studios 11000 Viking Drive, Suite 500 E Eden Prairie, MN 55344	Check #2140672	\$1,412.00
Reche Canyon	Target P.O. Box 59214 Minneapolis, MN 55459-0214	Check #2153342	\$77.90
Reche Canyon	T.E.A.M. Coyote - PTA 3101 Canyon Vista Drive Colton, CA 92324	Check #1220 Digital Sign	\$5,000.00
Reche Canyon	T.E.A.M. Coyote - PTA 3101 Canyon Vista Drive Colton, CA 92324	Check #1219 Digital Sign	\$8,150.00

EXHIBIT C, GIFTS - continued:

<u>Site</u>	<u>Donor</u>	<u>Donation/Purpose</u>	<u>Amount</u>
Ruth O Harris Middle School	Coca-Cola Refreshments One Penn's Way New Castle, DE 19720	Check #05302550	\$158.24
San Salvador	Knights of Columbus Colton Council No. 4017 740 Pennsylvania Avenue Colton, CA 92324	Check #3607	\$100.00
Slover Mt. High School	Target P.O. Box 59214 Minneapolis, MN 55459-0214	Check #2168029	\$138.40
Sycamore Hills	Target P.O. Box 59214 Minneapolis, MN 55459-0214	Check #2172189	\$161.99

EXHIBIT D, PERSONNEL:

<u>I-A</u>	<u>Certificated – Regular Staff</u>	<u>Subject</u>	<u>Site</u>
1.	Arroyo, Arlene	Elementary Teacher (temp)	Grimes
2.	Baeza, Arlina	Elementary Teacher (temp)	McKinley
3.	Berger, Stacey	Elementary Teacher (temp)	Grand Terrace
4.	Caceres, Marisa	SDC/LH Teacher	BMS
5.	Granado, Sharon	Elementary Teacher (temp)	Wilson
6.	Martinez, Daniel	Math Teacher (temp)	BHS
7.	Moore, Brandon	Social Science Teacher	CHS
8.	Ramos, Alice	Elementary Teacher (temp)	Lewis
9.	Rungo, Art	Elementary Teacher (temp)	Wilson
10.	Schoonover, Tamara	Elementary Teacher (temp)	Cooley Ranch
11.	Walker, Katelyn	Science Teacher	CHS
<u>I-B</u>	<u>Certificated – Activity/Coaching Assignments</u>	<u>Position</u>	<u>Site</u>
1.	Collins, Anna	HD JV Basketball	CHS
2.	Coronado, Anthony R.	HD Varsity Soccer	CHS
3.	Flores, Manuel	HD JV Soccer	CHS
4.	Goldkorn, Peter	HD Varsity Basketball	CHS
5.	Ponce, Armando	HD Varsity Soccer	CHS
<u>I-C</u>	<u>Certificated – Hourly</u>	<u>Position</u>	<u>Site</u>
	None		
<u>I-D</u>	<u>Certificated – Substitute Teacher</u>		
1.	Aguilar, Elena	13. Gomez, Angelica	
2.	Aguirre, Lorena	14. Gutierrez, Brian	
3.	Alcantar, Esmeralda	15. Heredia, Paul	
4.	Alcaez Torres, Saul	16. Hernandez, Sarah	
5.	Aldana, Danielle	17. Iacodo, Steven	
6.	Baldwin, Michelle	18. Maples, Leslie	
7.	Brown, Erica	19. Morales, Margaret (retired teacher)	
8.	Bui, David	20. Ortiz, Ulises	
9.	Duarte, Mayra	21. Ruiz, Jose	
10.	Duran, Abril	22. Salais, Crystaleen	
11.	Frimpong-Manso, Kwadwo	23. Smith, Dianne	
12.	Gaston, Christopher	24. Zarek, Kristina	
<u>II-A</u>	<u>Classified – Regular Staff</u>	<u>Position</u>	<u>Site</u>
1.	Beeson, Brandon	Mail Courier/Delivery Driver	DO/Print Shop
2.	Castro, Monserrat	Special Ed. Inst. Asst.	CMS
3.	De Blanco, Patricia	State Preschool Inst. Asst.	Lincoln
4.	Espinoza, Wendy	Bus Driver	Transportation
5.	Euzquiano, Pedro	Mechanic	Transportation
6.	Flores, Paula	State Preschool Inst. Asst.	Wilson
7.	Hernandez, Esmeralda	Bus Driver	Transportation
8.	Romero, Roseanna	Bus Driver	Transportation

EXHIBIT D, PERSONNEL:

<u>II-B</u>	<u>Classified – Activity/Coaching Assignments</u>	<u>Position</u>	<u>Site</u>
1.	De La Torre, Erika	HD Frosh/Soph Volleyball (walk-on) returning	CHS
2.	Hopkins, Bradford	Football Assistant (walk-on)	BHS
<u>II-C</u>	<u>Classified – Classified Hourly</u>	<u>Position</u>	
1.	Arreola, Dolores	Sub Nutrition Service Worker	
2.	Avila, Ismael	Sub Bus Driver	
3.	Escajeda, Corrina	Sub Child Development Inst. Asst.	
4.	Estrada, Nancy	Sub Child Development Inst. Asst.	
5.	Johnson, Desiree	Sub Bus Driver	
6.	Rodriguez, Gina	Sub Child Development Inst. Asst.	
<u>II-D</u>	<u>Classified Substitute</u>	<u>Position</u>	<u>Site</u>
1.	Chavez, Elizabeth	Noon Aide	Reche Canyon
2.	Contreras, Tamara	Sub Noon Aide	Grand Terrace/Cooley Ranch
3.	Ramirez, Cory	Sub Noon Aide	Jurupa Vista
4.	Tejeda, Christina	Noon Aide	

RESIGNATIONS:

	<u>Certificated Employee</u>	<u>Position</u>	<u>Site</u>	<u>Employment Date</u>	<u>Resignation Effective</u>	<u>Reason</u>
1.	Kazalunas, John	Psychologist	PPS	September 7, 2010	October 9, 2010	Medical reasons
	<u>Classified Employee</u>	<u>Position</u>	<u>Site</u>	<u>Employment Date</u>	<u>Resignation Effective</u>	<u>Reason</u>
1.	Trujillo, Joe	Security Manager	CHS	August 15, 2006	October 7, 2010	Personal reasons.
2.	Caceres, Marisa	Language Assistant	Crestmore	November 30, 2009	October 20, 2010	Accepted teaching position.
3.	Carrillo, Corrina	Nutrition Svcs. Worker I	Terrace View	October 21, 2009	October 30, 2010	Relocating

DRAFT

EXHIBIT E, CONFERENCES:					
<u>Employee</u>	<u>Title</u>	<u>Site</u>	<u>Conference</u>	<u>Date/Location</u>	<u>Funds</u>
Frank Miranda	Principal	McKinley	<i>ACSA 2010 Leadership Conference</i>	November 4-6, 2010 San Diego, CA	General Funds \$1,689.33
<i>Ratification-carried over from 10/21/10 cancelled Board Meeting</i>					
Rick Feinstein Juanita Battistone	Manager Benefits Tech.	Transportation DO/Risk/Benefits	<i>High Desert Inland Trust Annual Board Retreat</i>	November 5-6, 2010 Lake Arrowhead, CA	No Cost to District
Tiffany Martin Amanda Orrence Lisa Boschma Jair Nepomuceno	Teachers	BMS	<i>Equity in Math – CMC</i>	November 5-6, 2010 Palm Springs, CA	EIA/LEP Funds \$1,937.50
Michael Walling Alan Lake Lawrence Okonkwo	Counselor Teachers	BHS	<i>CASLE SLC Leadership Retreat</i>	November 7-9, 2010 Lake Arrowhead, CA	SLC Funds \$1,720.45
Marc Howard Calvin Smith	Teachers (ROP)	BHS	<i>UCCI Institute: Subject Areas A&B</i>	November 7-10, 2010 Pacific Grove, CA	SLC Funds \$1,175.00
Lisa Lennox	Curriculum Program Specialist	PPS/ESC	<i>California Community of Practice Secondary Transition Symposium</i>	November 14-16, 2010 Los Angeles, CA	Workability Funds \$644.82
4 Administrators 23 Teachers		Bloomington Christian School	<i>ACSI Anaheim Convention</i>	November 18-19 2010 Anaheim, CA	Title II Funds \$3,529.00
Kathleen Dickerson	Teacher	CHS	<i>Culinary Arts for Food Service & Hospitality Educators</i>	November 19-21, 2010 Los Angeles, CA	Perkins Funds \$701.52
Helen Rodriguez Diana Carreon	Director Coordinator	ESC/PPS	<i>ACSA's 2011 Student Services & Special Education Symposium</i>	January 12-14, 2011 Monterey, CA	Special Ed Funds \$2,807.84
Celia Gonzales	Coordinator	DO/Staff Development	<i>ACSA's 2011 Symposium for Negotiators & Negotiation Teams "Survival: Keeping Your Torch Lit!"</i>	January 19-21, 2011 Universal City, CA	SLI Funds \$1,291.51
Ingrid Munsterman Robert Verdi	Director Principal	DO/HR CHS	<i>ACSA's 2011 Symposium for Negotiators & Negotiation Teams "Survival: Keeping Your Torch Lit!"</i>	January 19-21, 2011 Universal City, CA	HR Funds \$2,099.32
Patt Haro Kent Taylor	Board Members	D.O. Superintendent	<i>ACSA's 2011 Symposium for Negotiators & Negotiation Teams "Survival: Keeping Your Torch Lit!"</i>	January 19-21, 2011 Universal City, CA	Board Funds: \$2,099.32
Delores Curry	Counselor	BHS	<i>WASC Accreditation Visit</i>	March 28-30, 2011 Pomona, CA	No Cost to District



program report

COLTON JOINT UNIFIED SCHOOL DISTRICT

PLANNING AND DESIGN

Architect and Engineering Services for BHS and CHS Multipurpose Rooms and Cafeterias

After a lengthy proposal review and interview process, ranking and recommendations were presented to the Board of Education Sub-Committee for Facilities. Board consent to enter into contract negotiations for design services with Steinberg Architects and NTD Architects was given September 2. Board approval of final agreements is scheduled for a November 18 Board meeting. Design is planned to start in December.

Districtwide Master Plan

School site data and feedback from community meetings has been collected. Documentation of existing facilities and educational specifications are being compiled. Opportunities and challenges will then be evaluated and used to develop recommendations for project scope and budget estimates of proposed transformations. All of this information will be contained in a draft master plan to be completed and presented to the District for their review and comment in December 2010. Final submittal of the Districtwide Master Plan is anticipated in February 2011.

PROCUREMENTS

Lease-Leaseback Construction Services—Colton High School Math and Science Buildings

Staff has reviewed lease-leaseback proposals for construction services. Upon Board approval, construction is planned to start in January 2011.

FUNDING

Qualified School Construction Bonds (QSCB)

Recently, additional potential Federal funding has become available under the QSCB program authorized by the Federal ARRA Program of 2009. Applications are due November 5, 2010 to the California Department of Education. Facilities will be pursuing this opportunity to support various projects.

CALENDAR OF EVENTS

November 2010

- Nov 8** Citizen's Oversight Committee Meeting @ 5:30 p.m.
- Nov 18** CJUSD Board Meeting @ 5:30 p.m.

December 2010

- Dec 9** CJUSD Board Meeting—new board members seated @ 5:30 p.m.
- Late Dec** Demolition of existing CHS Math and Science Building

January 2011

- TBD** CJUSD Board Meeting @ 5:30 p.m.
- Late Jan** Construction Starts for CHS Math & Science Building

November 4, 2010 Board Meeting

Date Approved: November 18, 2010

David R. Zamora, Clerk

James A. Downs, Superintendent

DRAFT

BOARD AGENDA

REGULAR MEETING
November 18, 2010

CONSENT ITEM

TO: Board of Education

PRESENTED BY: Mollie Gainey-Stanley, Assistant Superintendent
Educational Services Division

SUBJECT: Approval of Student Field Trips

GOAL: Improved Student Performance

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND: See attached grid.

**BUDGET
IMPLICATIONS:** General Fund Expenditure: \$38,551

RECOMMENDATION: That the Board approve the student field trips as listed and expend the appropriate funds.

FIELD TRIPS: Regular Meeting November 18, 2010

<u>Site</u>	<u>Date</u>	<u>Depart</u>	<u>Return</u>	<u>Destination</u>	<u>Activity/Background</u>	<u>Grade</u>	<u>Teacher</u>	<u>Cost</u>	<u>Funding</u>	<u>Strategic Plan*</u>
CHS	11/18/10 to 11/19/10 (Th/F)	6 am	3 pm	Marine Corps Recruit Depot San Diego, CA (District)	<i>Marine Corps Boot Camp Graduation</i> Former CHS NJROTC cadet completing boot camp training.	9-12	David Brunkhorst (14)	\$300	ASB	Strategy #1
	Ratification									
Grant	12/7/10 to 12/8/10 (T/W)	1:45 pm	10:45 am	Ocean Institute Dana Point, CA (District)	<i>Life in the Abyss Overnight Program</i> Students will study and explore abyssal, benthic, and aquarium ecosystems.	5	Linda Odmen James Marshall (30+4)	No Cost	Ocean Institute's Adopt-A- Class Program	Strategy #1
BHS	1/14/11 & 1/15/11 (F/S)	11:30 am	1:30 pm	Ontario Hilton Ontario, CA (District)	The California FFA Integrated Leadership Conference Students will develop leadership skills.	10-12	Desiree Trapp Richard Montgomery (14)	\$1,975	FFA	Strategy #1
Jurupa Vista	2/16/11 to 2/18/11 (W/Th/F)	9 am	12 noon	Pali Institute Running Springs, CA (District)	<i>Sixth Grade Outdoor Science Camp</i> Students will learn about the ecology, geology and the ecosystems.	6	Leslie Anderson Josie Desmond Lindsay Hughes Faylene Pearson Sandi Stauffer (105)	\$23,100	ASB	Strategy #1
THMS	3/4/11 to 3/6/11 (F/S/S)	6 am	3 pm.	Catalina Island Marine Institute Toyon Bay Catalina, CA (District)	<i>Marine Biology Lab</i> Students will receive a hands-on science education in the natural and marine environments.	8	Rebekah Acorn Charisse Riser Joaquin Hernandez (54)	\$13,176	Donations (\$12,801) Tier III (\$375)	Strategy #1

*Strategy #1: We will establish an effective internal and external communications system to keep all partners informed about our mission, objectives, strategies, policies, successes, and strengths.

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

CONSENT ITEM

TO: **Board of Education**

PRESENTED BY: Mollie Gainey-Stanley, Assistant Superintendent
Educational Services Division

SUBJECT: **Approval of Consultants for Assembly Presentation**

GOAL: Improved Student Performance

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND: See attached grid.

**BUDGET
IMPLICATIONS:** General Fund Expenditure: \$2,591

RECOMMENDATION: That the Board approve the consultants for assembly presentations as listed and expend the appropriate funds.

ASSEMBLIES/PROGRAMS: Regular Meeting November 18, 2010

Site	Date	Time	Program/Purpose	Location	Consultant(s)	Cost	Funds	Strategic Plan*
Crestmore	12/7/10	5:30 pm	<i>Star Lab Planetarium</i> Parents and K-6 students will participate in Family Curriculum Night and will learn about the movement of stars and constellations through a mobile planetarium.	Crestmore	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$272	Title I	Strategy #1
BMS	1/13/11	8:10 am	<i>Lizard Wizard</i> Seventh grade students will learn to classify living groups of organisms by shared derived characteristics.	BMS	Lizard Wizard Theresa Minko Canyon Lake, CA	\$325	EIA/SLI	Strategy #1
Cooley Ranch	2/7/11	8:30 am	<i>Journey into the Serrano Culture</i> Third grade students will be introduced to traditional Serrano culture and history in line with the California Content Standards.	Cooley Ranch	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$331	Donations	Strategy #1
Cooley Ranch	2/18/11	8:30 am	<i>Animal Classification</i> Third grade students will learn how to group land animals by comparing and contrasting their characteristics and adaptations.	Cooley Ranch	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$231	Donations	Strategy #1
Cooley Ranch	2/28/11	9:30 am	<i>All About Bugs</i> Third grade students will compare various types of arthropods-insects, arachnids, and others using models and live animals.	Cooley Ranch	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$131	Donations	Strategy #1
Cooley Ranch	3/4/11	8:30 am	<i>Star Lab Planetarium</i> Third grade students will learn about the movement of stars and constellations through a mobile planetarium.	Cooley Ranch	Museum on the Road Program San Bernardino County Museum Redlands, CA	\$266	Donations	Strategy #1

*Strategy #1: We will establish an effective internal and external communications system to keep all partners informed about our mission, objectives, strategies, policies, successes, and strengths.

ASSEMBLIES/PROGRAMS: Regular Meeting November 18, 2010

Smith	3/8/11	8:45 am 9:45 am	<i>The Imagination Machine Writing Show</i> K-6 students will learn techniques to enhance creative writing skills.	Smith	The Imagination Machine Villa Park, CA	\$1,035	PTA	Strategy #1
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*Strategy #1: We will establish an effective internal and external communications system to keep all partners informed about our mission, objectives, strategies, policies, successes, and strengths.

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

CONSENT ITEM

TO: **Board of Education**

PRESENTED BY: Mollie Gainey-Stanley, Assistant Superintendent
Educational Services Division

SUBJECT: **Approval of Bloomington Middle School’s Revised Single Plan for Student Achievement and Allocation of Title I Funds (2010-11)**

GOAL: Student Performance

STRATEGIC PLAN: Strategy #1 – Communication
Strategy #2 – Curriculum

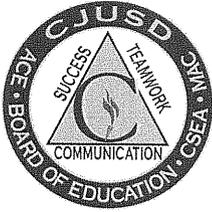
BACKGROUND: The NCLB Act of 2001 requires that schools receiving Title I funds for the first time submit a revised Single Plan for Student Achievement for Board approval before funds can be allocated to the school site.

The Bloomington Middle School Leadership Team, staff, ELAC and School Site Council have analyzed the academic performance of all student groups and have considered the effectiveness of the instructional program. As a result, the school has adopted the goals, related actions, and expenditures in their revised Single Plan for Student Achievement to raise their academic performance.

BUDGET IMPLICATIONS: Title I allocation to Bloomington Middle School: \$298,927

RECOMMENDATION: That the Board approve the Bloomington Middle School revised Single Plan for Student Achievement and allocation of Title I funds (2010-11).

Colton Joint Unified School District The Single Plan for Student Achievement



Bloomington Middle School

6059380
CDS Code

Date of this Plan: October 20, 2010

The *Single Plan for Student Achievement* (SPSA) is a plan of actions to raise the academic performance of all students to the level of performance goals established under the California Academic Performance Index. California *Education Code* sections 41507, 41572, and 64001 and the federal No Child Left Behind Act (NCLB) require each school to consolidate all school plans for programs funded through the School and Library Improvement Block Grant, the Pupil Retention Block Grant, the Consolidated Application, and NCLB Program Improvement into the *Single Plan for Student Achievement*.

For additional information on school programs and how you may become involved locally, please contact the following person:

Contact Person: Nuh Kimbwala

Position: Principal

Telephone Number: 909.876.4101

Address: Bloomington Middle School, 18829 Orange Street, Bloomington, CA, 92316

E-mail Address: nuh_kimbwala@cjUSD.net

The District Governing Board approved this revision of the School Plan on _____.

Language Arts: Planned Improvements in Student Performance

The school site council has analyzed the academic performance of all student groups and has considered the effectiveness of the instructional program for students failing to meet API and AYP growth targets. As a result, it has adopted the following school goals, related actions, and expenditures to raise the academic performance of student groups not meeting state standards:

SCHOOL GOAL # 1			
For all targeted students an 11% increase in proficiency as measured by the language arts portion of the CST.	Anticipated annual performance growth for each group:	Estimated Cost	Funding Source
<p>Student groups and grade levels to participate in this goal:</p> <p>All Bloomington Middle School students who did not score proficient or advanced on the English Language Arts California Standards Test.</p> <p>All Parents of the above referenced students.</p> <p>All teachers of the above referenced students.</p> <p>Site Administrators.</p>	<p>For all targeted students a 8% increase in proficiency as measured by the CST.</p>		
<p>Means of evaluating progress toward this goal:</p> <ul style="list-style-type: none"> • Intensive Instruction Program participation and completion • CST results • Benchmark results • Intercession participation • STAR Saturday school participation • Accelerated Reader results and participation • Skills Tutor participation and results • Standards Plus participation and results 	<p>Group data to be collected to measure academic gains:</p> <ul style="list-style-type: none"> • Benchmark Data • CST data • Content Exams • Semester Exams 		
Actions to be Taken to Reach This Goal Consider all appropriate dimensions	Start Date Completion Date	Proposed Expenditures	Funding Source
<p>1. Purchase instructional materials and software for intervention programs: Standards Plus, Accelerated Reader, United Streaming and Skills Tutor.</p>	<p>Nov. 5, 2010 – June 7, 2011</p>	<p>Materials for Standards Plus, Library books, Computer Paper, Toner, Audio Books, pencils, United Streaming Site License</p>	<p>Title I</p>
<p>2. Establish two computer labs</p>	<p>Nov. 5, 2010 – June 7, 2011</p>	<p>Computers, Color/Black and White Printers, Monitors, all necessary software, scanners, Flash Drives, Computer Desks, Computer Lab Chairs, headset, mouse pads, Smart Board, and all necessary cables</p>	<p>Title I</p>

3. Purchase supplemental instructional Materials to faithfully implement adopted English Language Arts curriculum.	Nov. 5, 2010 – June 7, 2011	Class sets of Novels and supplemental materials, Dictionaries, Thesauruses, Audio Books, other instructional materials	\$65,000	Title I
4. Provide intervention programs for students.	Nov. 5, 2010 – June 7, 2011	D-67 for certificated/classified extra-duty	\$12,500	Title I
5. Parent involvement activities relating to Title I programs and targeted student population.	Nov. 5, 2010 – June 7, 2011	All related costs, including: Refreshments, Childcare, other materials	\$3,000	Title I
6. School-wide recognition and incentive activities relating to Title I programs and targeted student population.	Nov. 5, 2010 – June 7, 2011	All related costs, including: Awards, Refreshments, Childcare, other materials	\$2,500	Title I
7. Funds will be allocated to pay a project office assistant to assist with the monitoring of the Title I programs/activities.	Nov. 5, 2010 – June 7, 2011	D-67 to fill the 4 hour project assistant, All salary and benefits related to a 4 hour project office assistant position	\$20,000	Title I
8. Funds will be allocated to pay a teacher on assignment to assist with the monitoring and implementation of the Title I programs/activities.	Nov. 5, 2010 – June 7, 2011	D-67 to fill a part-time teacher on assignment position, All Salary and benefits related to a part-time teacher on assignment position	\$45,000	Title I

Mathematics: Planned Improvements in Student Performance

The school site council has analyzed the academic performance of all student groups and has considered the effectiveness of key elements of the instructional program for students failing to meet API and AYP growth targets. As a result, it has adopted the following school goals, related actions, and expenditures to raise the academic performance of student groups not meeting state standards:

SCHOOL GOAL # 2				
For all targeted students an 11% increase in proficiency as measured by the mathematics portion of the CST	Anticipated annual growth for each group: For all targeted students an 8% increase in proficiency as measured by the CST.	Group data to be collected to measure gains:	Estimated Cost	Funding Source
<p>For all targeted students an 11% increase in proficiency as measured by the mathematics portion of the CST</p> <p>Groups participating in this goal (e.g., students, parents, teachers, administrators):</p> <p>All Bloomington Middle School students who did not score proficient or advanced on the Mathematics California Standards Test.</p> <p>All Parents of the above referenced students.</p> <p>All teachers of the above referenced students.</p> <p>Site Administrators.</p>	<p>Anticipated annual growth for each group: For all targeted students an 8% increase in proficiency as measured by the CST.</p>	<p>Group data to be collected to measure gains:</p> <ul style="list-style-type: none"> • Benchmark Data • CST data • Content Exams • Semester Exams • Ancillary Math Assessments 	<p>Estimated Cost</p> <p style="text-align: center;">\$15,000</p>	<p>Funding Source</p> <p style="text-align: center;">Title I</p>
<p>Means of evaluating progress toward this goal:</p> <ul style="list-style-type: none"> • Intensive Instruction Program participation and completion • CST results • Benchmark results • Intercession participation • STAR Saturday school participation • Accelerated Math results and participation • Skills Tutor participation and results • Standards Plus participation and results 	<p>Start Date</p> <p style="text-align: center;">Nov. 5, 2010 – June 7, 2011</p>	<p>Proposed Expenditures</p> <p style="text-align: center;">Materials for Standards Plus, Scanning Device, Scantron sheets Computer Paper, Toner, pencils, United Streaming Site License</p>	<p>Estimated Cost</p> <p style="text-align: center;">\$15,000</p>	<p>Funding Source</p> <p style="text-align: center;">Title I</p>
<p>Actions to be Taken to Reach This Goal</p> <p>Consider all appropriate dimensions</p> <ol style="list-style-type: none"> 1. Purchase instructional materials and software for: Standards Plus, Accelerated Math, United Streaming, SMART Math and Skills Tutor. 	<p>Start Date</p> <p style="text-align: center;">Nov. 5, 2010 – June 7, 2011</p>	<p>Proposed Expenditures</p> <p style="text-align: center;">Materials for Standards Plus, Scanning Device, Scantron sheets Computer Paper, Toner, pencils, United Streaming Site License</p>	<p>Estimated Cost</p> <p style="text-align: center;">\$15,000</p>	<p>Funding Source</p> <p style="text-align: center;">Title I</p>

2. Establish two computer labs	Computers ,Color/Black and White Printers, Monitors, all necessary software, scanners, Flash Drives, Computer Desks, Computer Lab Chairs, headsets, mouse pads, Smart Board, and all necessary cables	Nov. 5, 2010 – June 7, 2011	See Language Arts #2	Title I
3. Purchase instructional Materials to faithfully implement adopted Math curriculum.	Supplemental materials, other instructional materials	Nov. 5, 2010 – June 7, 2011	\$65,000	Title I
4. Provide intervention programs for students.	D-67 for certificated/classified extra-duty	Nov. 5, 2010 – June 7, 2011	See Language Arts #4	Title I
5. Parent involvement activities relating to Title I programs and targeted student population.	All related costs, including: Refreshments, Childcare, other materials	Nov. 5, 2010 – June 7, 2011	See Language Arts #5	Title I
6. School-wide recognition and incentive activities relating to Title I programs and targeted student population.	All related costs, including: Awards, Refreshments, Childcare, other materials	Nov. 5, 2010 – June 7, 2011	See Language Arts #6	Title I
7. Funds will be allocated to pay a project office assistant to assist with the monitoring of the Title I programs/activities.	D-67 to fill the 4 hour project assistant, All salary and benefits related to a 4 hour project office assistant position	Nov. 5, 2010 – June 7, 2011	See Language Arts #7	Title I
8. Funds will be allocated to pay a teacher on assignment to assist with the monitoring and implementation of the Title I programs/activities.	D-67 to fill a part-time teacher on assignment position, All Salary and benefits related to a part-time teacher on assignment position	Nov. 5, 2010 – June 7, 2011	See Language Arts #8	Title I

English Language Learners: Planned Improvements in Student Performance

The school site council has analyzed the academic performance of all student groups and has considered the effectiveness of key elements of the instructional program for students failing to meet API and AYP growth targets. As a result, it has adopted the following school goals, related actions, and expenditures to raise the academic performance of student groups not meeting state standards:

SCHOOL GOAL # 3			
(Based on conclusions from Analysis of Program Components and Student Data pages)			
For all targeted students an 11% increase in proficiency as measured by the English Language Arts and Mathematics CST as well as.			
Groups participating in this goal (e.g., students, parents, teachers, administrators):	Anticipated annual growth for each group:	Estimated Cost	Funding Source
<p>All Bloomington Middle School students who did not score proficient or advanced on the English Language Arts or Mathematics California Standards Test.</p> <p>All Parents of the above referenced students.</p> <p>All teachers of the above referenced students.</p> <p>Site Administrators.</p>	<p>For all targeted students an 8% increase in proficiency as measured by the English Language Arts and Mathematics CST as well as.</p>		
<p>Means of evaluating progress toward this goal:</p> <ul style="list-style-type: none"> • Intensive Instruction Program participation and completion • CST results • Benchmark results • Intercession participation • STAR Saturday school participation • Accelerated Math results and participation • Accelerated Reader results and participation 	<p>Group data to be collected to measure gains:</p> <ul style="list-style-type: none"> • CELDT Data • Benchmark Data • CST data • Content Exams • Semester Exams • Ancillary Math Assessments 		
Actions to be Taken to Reach This Goal Consider all appropriate dimensions	Start Date Completion Date	Proposed Expenditures	Estimated Cost
<p>1. Staff Development/Trainings: CELDT, Standards Plus, Accelerated Math and Reader, SMART Technologies, Skills Tutor, United Streaming, and any other training related to the BMS Targeted population.</p>	<p>Nov. 5, 2010 – June 7, 2011</p>	<p>All related costs including: registration, housing, substitute and travel fees associated with the trainings/staff development</p>	<p>\$2,927</p>
			<p>Title I</p>

Programs Included in this Plan

Check the box for each state and federal categorical program in which the school participates and, if applicable, enter amounts allocated. (The plan must describe the activities to be conducted at the school for each of the state and federal categorical program in which the school participates. If the school receives funding, then the plan must include the proposed expenditures.)

Programs	Allocation
<input checked="" type="checkbox"/> Title I, Part A Targeted Assistance Program (Bloomington Middle and Slover only) <u>Purpose:</u> Upgrade the targeted educational program of eligible schools in high poverty areas.	\$298,927

Education Code Section 64001(g) requires that the SPSA be reviewed and updated at least annually, including proposed expenditures of funds allocated to the through the Consolidated Application, by the school site council. The current make-up of the school site council is as follows:

Bloomington Middle School 2010 – 2011 School Year

School Site Council

SSC must be organized to ensure parity among its members. One half of a council must be comprised of school personnel: the principal, certificated, and classified staff. Certificated staff must be comprised of classroom teachers, TOA or CPS. Teachers must be in the majority. The other half of the council is comprised of parents and community members (elementary schools) or students in secondary schools. Representatives of each group—parents, teachers, students and other staff—must be selected by their peers. Alternates may be selected at the time elections are held. Parents who work for the district and who are assigned to the school attended by their children are not eligible to serve on that school's School Site Council in the "Parent" category. The principal may not designate any other person as a replacement for her or himself.

Principal: Nuh Kimbwala

Parents or Community Members:

1. Melissa Boyer
2. Lucy Gallegos
3. Christina Renteria
4. David Magallanez
5. Ricky Krebs
6. Nancy Molina
7. Sandra Munguia

Certificated Staff – Teachers

1. Michael Bayless
2. Paul Lucero
3. Marisa Lopez-Sevilla
4. Patricia Peterson
5. Rose Smith

Other Staff Member

1. David Espinoza

English Learner Advisory Committee (ELAC)

ELAC monitors development and implementation of the school's English learner program. This committee communicates with the principal and staff regarding: the school's plan for English learner education. The ELAC is comprised of parents of LEP students, staff members and community members. Parent membership is determined by means of an election in which all parents of LEP students have an opportunity to vote.

Principal: Nuh Kimbwala

Parents or Community Members:

1. Teresa Torres
2. Carmen Gonzalez
3. Yolanda Martinez

Other staff members:

1. Yvette Roman
2. David Espinoza
3. Christy Padilla

Recommendations and Assurances

The school site council recommends this school plan and proposed expenditures to the district governing board for approval and assures the board of the following:

1. The school site council is correctly constituted and was formed in accordance with district governing board policy and state law.
2. The school site council reviewed its responsibilities under state law and district governing board policies, including those board policies relating to material changes in the school plan requiring board approval.
3. The school site council sought and considered all recommendations from the following groups or committees before adopting this plan (**Check those that apply**):

School Advisory Committee for State Compensatory Education Programs

English Learner Advisory Committee

Community Advisory Committee for Special Education Programs

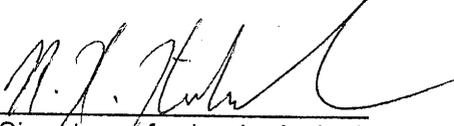
Gifted and Talented Education Program Advisory Committee

Other (*list*)

4. The school site council reviewed the content requirements for school plans of programs included in this *Single Plan for Student Achievement* and believes all such content requirements have been met, including those found in district governing board policies and in the LEA Plan.
5. This school plan is based on a thorough analysis of student academic performance. The actions proposed herein form a sound, comprehensive, coordinated plan to reach stated school goals to improve student academic performance.
6. This school plan was adopted by the school site council at a public meeting on: 10/20/10.

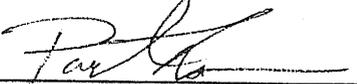
Attested:

Nuh Kimbwala
Typed name of school principal


Signature of school principal

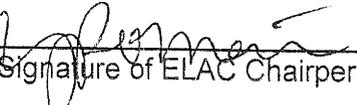
11/01/10
Date

Paul Lucero
Typed name of SSC Chairperson


Signature of SSC Chairperson

11/1/10
Date

Yvette Roman
Typed name of ELAC Chairperson


Signature of ELAC Chairperson

11/1/10
Date

BOARD AGENDA

REGULAR MEETING
November 18, 2010

CONSENT ITEM

- TO:** Board of Education
- PRESENTED BY:** Mollie Gainey-Stanley, Assistant Superintendent
Educational Services Division
- SUBJECT:** Approval to Renew One-Year Computer Program License Agreement with *SkillsTutor* to Provide Supplemental Instruction and Tutoring Services for Elementary School Students (2010-11)
- GOAL:** Improved Student Performance
- STRATEGIC PLAN:** Strategy #2 – Curriculum
- BACKGROUND:** Since 2007 the elementary schools have used the *SkillsTutor* Computer Program. This web-based program will target English learner students who are in need of intervention to become proficient in English language arts and math. This supplemental program will support students in building comprehension skills, vocabulary development, math and working with key content standards. This program is aligned to standards and provides additional instructional time as needed. Review of the program shows that this program is effective for English learners. The District will continue to monitor data on an on-going basis.
- According to the results, *SkillsTutor* use was associated with increases in CST scores for all grades in math and half the grades in ELA. This year, a series of lessons were identified within *SkillsTutor* that contained instruction related to key standards in ELA and math. Next year, particularly for grades three, six, and eight in ELA, schools will be encouraged even more to have their students complete the entire series.
- The *SkillsTutor* program is concluded to have a positive and overall statistically significant correlation with CST scores. The Educational Services Division recommends its continued use for the 2010-11 school year.
- BUDGET**
- IMPLICATIONS:** Title III and Title III Immigrant Expenditure: \$41,125
- RECOMMENDATION:** That the Board approve to renew the one-year computer program license agreement with *SkillsTutor* to provide supplemental instruction and tutoring services for elementary students (2010-11).

Colton Joint Unified School District



2009 – 2010 Skills Tutor Analysis

Presented by: Patrick Traynor, Ph.D., Director
Assessment and Evaluation Department

9/24/2010

Introduction

SkillsTutor is a computer application published by the Houghton Mifflin Harcourt Brace company. It presents instruction in English Language Arts and Math. Students take a pretest at the beginning of a unit and are either assigned several lessons based on their pretest results or are assigned a series of lessons within the unit by their teacher or school. After completing their lessons, they take a posttest.

- Colton Joint Unified School District elementary and middle schools have been using Skills Tutor in a variety of capacities:
- As part of an intercession
- As part of intervention time for selected students
- As an elective class
- As a supplement to the English Language Arts and Math Curriculum
- As part of an Intensive Instruction Program

While pretest to posttest gains can be readily observed, CJUSD has been interested in seeing how SkillsTutor use affects California Standards Test (CST) growth. Each year, the SkillsTutor program has been evaluated for its effectiveness at increasing CST scores before renewing the annual contract with the company.

This study evaluates the effectiveness of Skills Tutor in increasing CST performance in both English Language Arts (ELA) and Math.

Procedure

A correlation analysis was performed to see if there was an association between the time students used the SkillsTutor program and their increase in CST scores. That is, for ELA, the number of minutes a student used the ELA components of the SkillsTutor program were compared to ELA CST increases. The same comparison was made for math. Spring 2009 scaled scores for each subject were subtracted from the Spring 2010 scaled score to determine growth. The SkillsTutor application kept records of the number of minutes each student spent on ELA lessons and math lessons.

Comparisons were made within each grade level that not only had Spring 2010 CST results, but had to have Spring 2009 results as well. For example, a correlation analysis within the second grade could not be performed as these students did not have a Spring 2009 CST score.

A positive and statistically significant correlation at the 90% confidence level was used to determine if the SkillsTutor program was correlated to increased CST results for each grade level and subject.

Results

All grade levels in math showed a positive and statistically significant correlation between time spent on the Math SkillsTutor lessons and CST scaled score growth. Grades four, five and seven showed a positive and statistically significant correlation between the time spent on the ELA lessons and ELA CST growth. However, no statistically significant correlation was found within the third, sixth and eighth grades for

ELA. Tables 1 and 2 show the Correlation (r) values for each grade level along with its statistical significance (p) value.

Math				
Grade Level	# Students	Correlation (r)	Statistically Significant (Y/N)	p value (values <0.1 are significant at the 90% confidence level)
3	780	0.146	Y	<0.0001
4	925	0.061	Y	0.039
5	725	0.166	Y	<0.0001
6	755	0.056	Y	0.07
7	783	0.072	Y	0.036
8	443	0.202	Y	<0.0001

Table 1 – Correlation Values between Time on Skills Tutor Math Lessons and Math Standardized Test Growth

ELA				
Grade Level	# Students	Correlation (r)	Statistically Significant (Y/N)	p value (values <0.1 are significant at the 90% confidence level)
3	958	0.004	N	0.458
4	919	0.086	Y	0.007
5	864	0.076	Y	0.018
6	775	-0.003	N	0.464
7	832	0.083	Y	0.016
8	692	0.015	N	0.363

Table 2 – Correlation Values between Time on Skills Tutor English Language Arts (ELA) Lessons and ELA Standardized Test Growth

Conclusion

According to the results, SkillsTutor use was associated with increases in CST scores for all grades in math and half the grades in ELA. This year, a series of lessons were identified within SkillsTutor that contained instruction related to key standards in ELA and Math. Next year, particularly for grades three, six, and eight in ELA, schools will be encouraged even more to have their students complete the entire series.

The Skills Tutor program is concluded to have a positive and overall statistically significant correlation with CST scores. The Assessment and Evaluation Department recommends its continued use for the 2010-11 school year.



PROPOSAL #CA-1148

October 28, 2010

Ms. Bertha Arreguin
 Colton Joint Unified School District
 851 South Mt. Vernon St.
 Colton, CA 92324

Dear Bertha:

This is a proposal for the Colton Joint Unified School District to renew your site licenses for the *SkillsTutor* supplemental instruction and tutoring program at the elementary schools. This proposal reflects various online subscription licenses and configurations. In addition, you receive these additional services throughout the lifetime of your subscription:

- Site license renewals for schools
- Ongoing project management with named, assigned Project Manager
- Product feature updates in real time
- Related support materials
- Free inbound telephone technical support
- **Two (2) on-site training sessions for staff**

**One Year SkillsTutor License renewal, 14 K-8 instructional modules
 2 District programs, 18 elementary sites
 License term: 1/1/2011 through 12/31/2011**

Location	Product	License Type	List Price	Total
2 District Programs: "Cusp of Proficiency" and "Linguistically Gifted"	SkillsTutor Enhanced License	unlimited (cumulative target usage: 2,000)	\$49,500	\$41,125
	14 modules of instruction 1/1/2011 through 12/31/2011			
18 Elementary Schools	Sites permitted access			n/t
Total Savings:			\$8,375	
			Grand Total	\$41,125

Purchase Order must be received by November 28, 2010 to maintain this pricing
 Shipping terms: FOB Destination



As you prepare your Purchase Order, please include our company information – (Houghton Mifflin Harcourt Learning Technology, 222 Berkeley Street, Boston, MA, 02116, **Federal ID # 04-1456-030**) and note the following:

- ✓ **Fax your Purchase Order to the attention of Dan Sutton at (505) 867-0610**
- ✓ Bill-to address, ship-to address and end-user address
- ✓ Product description
- ✓ Purchase order number
- ✓ Signature of purchasing agent

We look forward to continuing to work with the students, staff and educators at the schools.

Sincerely,

Dan Sutton
dan.sutton@hmhpub.com

The following modules are available for SkillsTutor:

- | | |
|--|--|
| € Reading Vocabulary A (Grades 3-4) | € Math A (Grades 3-4) |
| € Reading Vocabulary B (Grades 5-6) | € Math B (Grades 5-6) |
| € Reading Vocabulary C (Grades 7-8) | € Math C (Grades 7-8) |
| € Reading Comprehension LL (Grade 2) | € Basic Mathematics (Grades 6+) |
| € Reading Comprehension A (Grades 3-4) | € Intermediate Mathematics (Grades 6+) |
| € Reading Comprehension B (Grades 5-6) | € Algebra I (Grades 6+) |
| € Reading Comprehension C (Grades 7-8) | € Science I (Grades 6+) |
| € Reading (Grades 6+) | € Science II (Grades 6+) |
| € Writing (Grades 6+) | € Information Skills (Grades 6+) |
| € Language (Grades 6+) | € NEW! Beginning Math (Grades K-2) |
| € Language Arts A (Grades 3-4) | € NEW! Beginning Language Arts (Grades K-2) |
| € Language Arts B (Grades 5-6) | € Workforce Readiness and Life Skills |
| € Language Arts C (Grades 7-8) | |

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

CONSENT ITEM

TO: Board of Education

PRESENTED BY: Mollie Gainey-Stanley, Assistant Superintendent
Educational Services Division

SUBJECT: Approval of Agreement with the Regents of the University of California, Riverside to Participate in the Mathematics, Engineering, Science Achievement (MESA) Program at Colton Middle School and Terrace Hills Middle School (2010-11)

GOAL: Improved Student Performance

STRATEGIC PLAN: Strategy #2 – Curriculum
Strategy #5 – College, Career

BACKGROUND: The mission of the MESA program is to enrich the pre-college math and science environment, and stimulate greater student interest in math, science and engineering. The program will enroll a diverse group of students reflective of the schools diversity and participants must demonstrate a commitment to prepare for college.

Estimated transportation cost to be paid from site funds.

**BUDGET
IMPLICATIONS:** General Fund Expenditure: \$2,000

RECOMMENDATION: That the Board approve the agreement with the Regents of the University of California, Riverside to participate in the Mathematics, Engineering, Science Achievement (MESA) program at Colton Middle School and Terrace Hills Middle School (2010-11).

**Agreement
Between
The Regents of the University of California
And
Colton Joint Unified School District**

Mathematics, Engineering, Science Achievement (MESA) Program

This agreement is entered into by and between The Regents of the University of California, on behalf of its Riverside campus, having offices located at The Office of Research, 200 University Office Bldg., Riverside, CA 92521-0217, (hereinafter referred to as “University”) and Colton Joint Unified School District (hereinafter referred to as “District”).

WHEREAS, University, through its Marlan and Rosemary Bourns College of Engineering, has received funding to develop and implement a Mathematics, Engineering, Science Achievement (MESA) Program (hereinafter referred to as “MESA Program”) that will enrich the math and science experiences of students within the District, particularly students from socially and economically disadvantaged backgrounds.

WHEREAS, District is interested in increasing the number of disadvantaged students entering college with particular attention and preparation for professions in engineering and mathematics-based scientific fields.

WHEREAS, University administers the MESA Program which has established guidelines for the operation of the program at middle and/or high schools within the District.

WHEREAS, District is interested in participating and cooperating with University in the implementation of the MESA Program.

WHEREAS University is prepared to provide training for District personnel as well as staffing and funding support in the implementation of MESA services at schools within the District.

WHEREAS, District and/or school site is prepared to contribute facilities and staff support in the implementation of MESA services at local school sites.

WHEREAS, University and District are interested in forging a partnership that will promote and foster the implementation of a successful MESA Program at the following middle and/or high schools: Colton Middle School and Terrace Hills Middle School.

NOW THEREFORE, the parties mutually agree as follows:

I. STATEMENT OF WORK

The mission of MESA Program at the University is to enrich the pre-college math and science environment, and stimulate greater student interest in math, science and engineering.

The MESA Program seeks to enroll a diverse group of students reflective of the schools diversity and balanced by the enrichment and support needs of prospective participants. All prospective

participants must demonstrate a commitment to preparing for college. To the extent possible by law, participation by socially and economically disadvantaged students is emphasized.

RESPONSIBILITIES OF THE MESA PROGRAM

- A. Provide MESA Advisors (the designated MESA teachers) with the following professional development and resources at no cost to the school or District:
 1. Annual kick-off training emphasizing project-based and collaborative learning (full day training typically held on a Saturday in late September or early October). Parking, continental breakfast, lunch and refreshment are provided free of charge.
 2. On-going professional development and guidance in the implementation of MESA's services. Professional development and guidance will be provided at five meeting throughout the year. The meetings are held at the University, during after school hours, and are typically three hours in duration. Parking, dinner and refreshments are provided free of charge.
 3. UCR MESA project-based enrichment curriculum, aligned to California math and science content standards.
 4. UCR MESA providing MESA Teacher supplies amounting up to \$500.
 5. MESA Program handbooks and manuals, offering a detailed description of services and processes.
 6. Stipend of up to \$2000, for participation in MESA events, trainings and meeting beyond contractual responsibilities to the District. The MESA Advisor's participation in MESA trainings and meetings is essential to effective implementation of MESA services and events. The stipend amount, dependent on the funding allocation for the year, will be prorated based on attendance at trainings, meetings and participation in MESA events.
- B. Assist in recruiting students in Fall of the current academic year and during Spring in advance of the next academic year.
- C. Offer a MESA Parent/Student Program Orientation at the University to offer parents and students an overview of program plans, benefits, and requirements. The event features: a preparing for college workshop, exciting science demonstrations, and a tour of the University. Each parent/student will leave the event with a detailed college-plan, emphasizing the courses and grade point averages required for admission to the University of California and California State University systems.
- D. Hire, train and assign a University undergraduate student to the school to offer the following academic guidance services:
 1. Monitor the academic performance of MESA students.
 2. Institute a MESA Grade Check process.
 3. Develop a MESA College Plan for every MESA student.
 4. Connect MESA students with University, District and school-based academic intervention and enrichment services.
- E. Host MESA Day Preliminary Competition at the University, inviting all MESA students from participating schools, and provide food and supplies at no cost to the school or District.
- F. Coordinate a fieldtrip to the University to participate in National Engineering Week activities. High schools will alternate participation in the event every other year due to space limitations. The MESA Program will pay for transportation, food and supplies (High Schools only).

- G. Host Year-end Competition at the University. The event, designed to introduce students to the engineering design process, features Water-Bottle Rocket, Cardboard Boat and College Poster Board competitions. Students will compete for scholarship money; \$100, \$75, and \$50 are awarded to each member of teams placing 1st, 2nd and 3rd respectively (up to 4 members per team).

RESPONSIBILITIES OF THE DISTRICT AND/OR SCHOOL(S):

- A. Identify one teacher per 25 – 30 MESA students to work as the MESA Advisor. MESA Advisor responsibilities include:
1. Implementing MESA projects.
 2. Facilitating math and science collaborative learning exercises.
 3. Preparing students for MESA Day and Year-End competitions.
 4. Attend trainings and meetings sponsored by the MESA Program.
 5. Perform limited administrative duties as needed, i.e. complete MESA Attendance Rosters, register MESA students for MESA Day Competitions, etc.
- B. Provide MESA Advisors with an opportunity to work with new and continuing MESA students by offering some form of a MESA schedule. The MESA Program prefers schedules that maximize contact with MESA participants during the regular school day. However, the program can be scheduled offering MESA services at least 2 hours per week or 8 hours per month, before school, after school, integrated into a math or science class, in a MESA club or on Saturdays. The expectation is that as the MESA Program develops and generates a track record of success, structural options offering greater contact with MESA students will be explored.
- C. Offer MESA Advisors an opportunity to recruit new MESA students and assist the students and their parents in completing MESA Program Enrollment Forms. MESA Advisors should strive to recruit a sufficient amount of students to ultimately enroll 25 – 30 students per MESA Class. The minimum acceptable number of students per MESA Advisor is 15.
- D. Designate a Counselor to assist in scheduling MESA students, when appropriate, for the designated MESA Class; assist in identifying prospective MESA students, and provide support, as needed, to MESA staff members responsible for developing college plans for MESA students.
- E. Provide University students working as Individual Academic Planning (IAP) Facilitators with the following:
1. A place to meet MESA students individually or in groups, i.e. in the multipurpose room, library, Counseling Office, Career Center, etc.
 2. Access to a computer.
 3. Access to student schedules.
 4. A place to store MESA field boxes containing student information.
- F. Secure and fund transportation for MESA students to participate in MESA Day Preliminary Competitions.
- G. Provide MESA Advisors with the following allowances (District and/or school):
1. Up to 2 substitute days per MESA Advisor per year for fieldtrips.
 2. Allowance for reproduction of MESA related classroom materials.
 3. Allowance for MESA supplies to cover expenses in excess of the amount directly purchased by the MESA Program.

Note: The school and/or District will determine the amount of the allowances, inform the Director of the MESA Program, and make the appropriate arrangements with the MESA Advisor.

II. PERIOD OF PERFORMANCE

- A. The period of performance of this agreement shall commence on July 1, 2010 and continue through June 30, 2011.
- B. Either the University or the District may terminate this agreement at any time, without cause, by giving the other thirty days written notice of such action.

III. IN-KIND CONTRIBUTION

The MESA Program requests that the school and/or District provide in-kind and/or cash support for the program in the amount consistent with the school's and/or District's vision for the long-term success of the program. In this regard, the amount of in-kind contribution is directly related to how MESA is structured within the District and at the local school(s). The MESA Program's critical in-kind and/or cash support needs are:

1. MESA Advisor's scheduled commitment to MESA during the regular school day (i.e. assigned a MESA period, math or science class in which MESA services will be integrated, MESA club that meets during the MESA Advisor's contracted hours, etc.).
2. A bus to transport MESA students to MESA Day Preliminary Competitions. Transportation costs can be reduced by sharing a bus with other MESA schools within the District, and when possible, sharing a vendor provided bus with MESA schools between districts.

For any form of a MESA period, the match will be calculated as (1/6) of the average teacher's salary for the District per MESA period or percentage of a period dedicated to MESA services, plus any additional in-kind or cash support for the program. For MESA activities integrated into an existing math or science class comprised of MESA students, either partially or fully, the match will be calculated as 40% of (1/6) of the average teacher's salary, assuming 2 hours of MESA instructional time per week, plus any additional in-kind or cash support for the Program. For after school or Saturday MESA schedules, the match will be calculated based on the District's or school's commitment to compensating the MESA Advisor at the regular hourly or extra duty rate, for implementing the MESA Program, and any additional in-kind or cash support for the program.

IV. TERMS AND CONDITIONS

A. Indemnification

University shall defend, indemnify and hold harmless District, its officers, employees, and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this agreement but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of University, its officers, employees, or agents.

District shall defend, indemnify and hold harmless University, its officers, employees, and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this agreement but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of District, its officers, employees, or agents.

Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release any party from its obligation to indemnify as to any claims or cause of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred prior to the effective date of termination or completion.

B Equal Opportunity

District shall not maintain or provide racially segregated facilities for employees at any establishment under District's control. District agrees to maintain employment policies and practices that affirmatively promote equality of opportunity.

C. Cooperation

University and District shall cooperate in the event of any a legal action or claim made by a third party that may result from activities relating to the performance of this agreement.

D. Compliance

University and District agree to comply with all applicable federal, state, and local laws, regulations and codes in the performance of this Agreement.

E. Force Majeure

University and District shall be excused from performance required under this Agreement if such performance is rendered impossible or unfeasible due to any events beyond its reasonable control, including without limitation, war, riot, natural disasters, weather, labor disputes or strike, acts of governmental officials or agencies, or any other cause beyond the reasonable control of either party. The excusable delay is allowed for the period of time affected by the delay, and The Parties will revise the performance or other provisions hereunder as appropriate.

F. Assignment

The obligations of University and District under this Agreement shall not be assigned without the prior written consent of the parties.

G .Confidential Information / Student Records

District acknowledges that University as a public, non-profit educational institution would prefer not to accept any confidential information of District. However, should District find it necessary to disclose to University any proprietary or confidential information of District in order to accomplish the objectives of the Program, District shall do so in accordance with the requirements of this Section G. Any information considered proprietary or confidential by District shall be provided to University (i) in writing and clearly identified as such, or if orally disclosed, identified as proprietary or confidential at the time of disclosure and reduced to writing within thirty (30) days by District; and, (ii) solely to the Principal Investigator, (hereinafter, "Confidential Information"). Notwithstanding the foregoing, Confidential Information shall not include any information which is, a) published or otherwise available to the public other than by breach of this Agreement by University; b) rightfully received by University from a third party without confidential limitations; c) independently developed by University; d) known to University prior to its first receipt from District; e) hereinafter disclosed by District to a third party without restriction on disclosure; f) approved for release by written authorization of District; or (g) required to be disclosed to the extent mandated by legal, accounting or regulatory requirements. University shall use reasonable efforts, in accordance with University's treatment of its own confidential information to maintain its confidentiality, to prevent the disclosure

of Confidential Information to third parties for a period of three (3) years from the date of disclosure of such Confidential Information.

Notwithstanding anything to the contrary in this Agreement, student and/or teacher names, records, and personal information that is not generally known to the public, shall not be considered public data and shall not be disclosed to any third party without the prior written consent of the District. Furthermore, such student information shall only be used by University for the limited purposes outlined herein. University shall implement appropriate safeguards to prevent the use and disclose of a student education records and student information beyond the scope of what is provided for by this Agreement and permitted under the Family Educational Rights and Privacy Act (FERPA) or other such laws.

H. Entire Agreement

This agreement and any exhibits attached hereto constitute the entire agreement between the parties to it and supersede any prior understanding or agreement with respect to the services contemplated, and may be amended only by written amendment executed by both parties to this agreement.

I. Severability

If any term, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired, or invalidated in any way.

J. Applicable Law

This agreement shall be governed by the laws of the State of California.

V. PROJECT PERSONNEL AND OTHER INFORMATION:

A. District

Program Matters	Name:	Mollie Gainey-Stanley
	Title:	Assistant Superintendent of Educational Services
	Address:	1212 Valencia Drive Colton, CA 92324
	Phone:	(909) 580-5000

Contractual Matters	Name:	James R. Ayala
	Title:	Assistant Superintendent of Business Services
	Address:	1212 Valencia Drive Colton, CA 92324
	Phone:	(909) 580-5000

B. University

Program Matters	Name:	Carlos Gonzalez
	Title:	MESA Director
	Address:	Bourns Hall A159C University of California Riverside, CA 92521
	Phone:	(951) 827-2746

Contractual Matters Name: Ursula Prins
 Title: Contract and Grant Officer
 Address: 200 University Office Building
 University of California
 Riverside, CA 92521-0217
 Phone: (951) 827-4808

[SIGNATURES APPEAR ON NEXT PAGE]

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

CONSENT ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Acceptance of Gifts

GOAL: Community Relations

STRATEGIC PLAN: Strategy #6 – Character

BACKGROUND: The Board may accept gifts of money or property on behalf of the district in accordance with Board Policy #3290: Gifts, Grants and Bequests.

RECOMMENDATION: That the Board accept the gifts as listed on the attached matrix.

Site	Donor	Donation/Purpose	Amount
Lincoln	Lifetouch National School Studios 11000 Viking Drive, Suite 500 E Eden Prairie, MN55344	Check #2107486	\$418.65
Reche Canyon	T.E.A.M. Coyote – PTA 3101 Canyon Vista Drive Colton, CA 92324	Check #1224	\$75.00
Reche Canyon	James A. Downs 1212 Valencia Drive Colton, CA 92324	Check #251	\$100.00
Reche Canyon	Alma Lopez 7180 Reche Canyon Road Colton, CA 92324	Check #207 Kindergarten Field Trip	\$140.00
Terrace View	Grand Terrace Lions Club 22421 Barton Road Apt 403 Grand Terrace, CA 92313	Check #8663	\$500.00

BOARD AGENDA

REGULAR MEETING
November 18, 2010

CONSENT ITEM

- TO:** Board of Education
- PRESENTED BY:** Jaime R. Ayala, Assistant Superintendent, Business Services Division
- SUBJECT:** Approval of Amendment No. 2 of Agreement No. 06/07-0144 – San Bernardino County Superintendent of Schools
- GOAL:** Student Performance / Community Relations & Parent Involvement
- STRATEGIC PLAN:** Strategy #1 – Communication
Strategy #6 – Character
- BACKGROUND:** On May 25, 2006 the Board approved Bloomington High School’s application for the Small Learning Community Grant from the San Bernardino County Superintendent of Schools. This grant is designed to improve the educational stability, access, support, and the academic achievement of students in the core areas.
- The term of this agreement shall be from July 1, 2006 through and including September 30, 2011. The original term of this agreement was from July 1, 2006 through and including August 15, 2011.
- BUDGET IMPLICATIONS:** No impact to the General Fund.
- RECOMMENDATION:** That the Board approve Amendment No. 2 of Agreement No. 06/07-0144 – San Bernardino County Superintendent of Schools.

Casey

**OFFICE OF THE
SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS
601 North E Street
San Bernardino, CA 92410-3093**

COPY

AGREEMENT NO. 06/07-0144

THIS AGREEMENT, made and entered into this 23rd day of May 2006, by and between the Office of the San Bernardino County Superintendent of Schools, hereinafter called "**SUPERINTENDENT**", Bloomington High School, hereinafter called "**SCHOOL**", and Colton Joint Unified School District, hereinafter called "**DISTRICT**",

RECITALS

WHEREAS, **SUPERINTENDENT**, **SCHOOL**, and **DISTRICT** are desirous of participating in the Smaller Learning Communities Grant, and

WHEREAS, the goals of the Center for the Advancements of Smaller Learning Environments (CASLE) Program are:

1-To improve academic achievement for all students by doing the following: Align assessments and curriculum to academic content standards; Eliminate the achievement gap among subgroups of students; Develop a school-wide plan to improve the literacy and numeracy skills of *all* students and to increase the number of students performing at the proficient and above level on state and district assessments; and Provide systemic support for students who are not proficient.

2-To decentralize and personalize schools by doing the following: Develop Smaller Learning Communities (SLC) structures that provide a sense of identity and safe learning environments for students; Establish systems for autonomous governance of SLC structures; and Promote widespread communication among schools regarding SLC work.

3-To improve the quality of instruction by doing the following: Develop Professional Learning Communities within teacher teams that examine student achievement data in order to make instructional decisions; Develop SLC teachers' skills in utilizing a variety of scientific and research-based instructional strategies that address the needs of various subgroups.

4-To increase the involvement of parents and community by doing the following: Develop an infrastructure that involves parents and community in supporting the school restructuring and improvement plan; and Develop a business partnership for each SLC school to promote work-based and project-based learning.

5-To connect students to college, career and technical development by doing the following: Prepare students for the 21st century world by providing a sequence of courses from 9-12 grade that integrates career technical education and extends learning beyond the classroom walls; Embed strategies like Advancement Via Individual Determination (AVID) in instruction in order to increase graduation rates and postsecondary enrollment; and

WHEREAS, **SUPERINTENDENT**, **SCHOOL**, and **DISTRICT** all believe these goals are essential to the education of today's youth; and

WHEREAS, **SUPERINTENDENT** is trained, skilled, and willing to act as the Applicant Agency for the grant on the behalf of itself and a group of schools and districts, and

WHEREAS, §75.128 of the Code of Federal Regulations allows a group of eligible parties to designate one member to apply for the grant;

NOW THEREFORE, the **SUPERINTENDENT**, **DISTRICT**, and **SCHOOL** mutually agree to the following:

1. Responsibilities of the **SUPERINTENDENT**

- a. **SUPERINTENDENT** will develop and submit the Smaller Learning Communities grant on behalf of **SCHOOL**.
- b. **SUPERINTENDENT** will oversee all management duties required for participation in the federal SLC grants, including budgetary and reporting requirements.
- c. **SUPERINTENDENT** will be responsible for assigning an SLC Coach to each **SCHOOL** to identify areas of need, and collaborate with **SCHOOL** to provide professional development and other resources necessary for SLC'S to meet the specified grant requirements.
- d. **SUPERINTENDENT** personnel will provide formative assessments of implementation activities occurring at **SCHOOL** in order to help facilitate implementation strategies.
- e. **SUPERINTENDENT** will contract with an External Evaluator to provide formative and summative evaluations of student achievement data, student and teacher satisfaction levels, and the progress **SCHOOL** has made towards meeting grant requirements.

- f. **SUPERINTENDENT** will coordinate activities of its CASLE, Alliance for Education, and P-16 collaboratives in an effort to expand experiential learning opportunities at each school, and enhance articulation.
- g. **SUPERINTENDENT** will ensure that a full range of resources will be made available to **SCHOOL**, including continuous updates about SLC and related programs through print and electronic communication; notification of additional grant opportunities; participation in related programs or projects to enhance the SLC process; and, specialized assistance to help meet Adequate Yearly Performance outcomes.

2. Responsibilities of the **DISTRICT**

- a. **DISTRICT** shall develop a system-wide framework to support the redesign of **SCHOOL** around the best practices of smaller learning communities, including collaborating on the outcomes to be expected, creating and communicating the vision of restructuring with all stakeholders and mobilizing resources and policies to support the **SCHOOL** in such areas as personnel, buildings and facilities, and data management systems.
- b. **DISTRICT** policy shall support building-level self-governance and the principles of shared decision making with members of SLC teams.
- c. **DISTRICT** shall assist **SCHOOL** by securing labor agreements to support the restructuring effort.
- d. Upon award of grant and receipt of funding, **DISTRICT** shall adhere to the financial agreements made with **SUPERINTENDENT** and will make all necessary data and information available upon request in order to meet grant reporting requirements and assist in the evaluation process.
- e. **DISTRICT** shall appoint a representative to participate in SLC activities within the **DISTRICT** and **SCHOOL** and work with Principal, **SCHOOL** SLC Coordinator and **TEACHER TEAM** to implement SLC. **DISTRICT** Representative shall attend key events such as CASLE Institutes, annual CASLE Retreat, and accompanying Principals' Roundtable meetings.
- f. Key **DISTRICT** decision-makers will participate in trainings about SLC and a visit to existing SLC sites in order to fully understand the best practices of SLC research.

3. Responsibilities of the **SCHOOL**

- a. **SCHOOL'S** Principal shall be the primary change agent in the redesign of the school, enlisting stakeholders to plan and implement SLC.
- b. **SCHOOL'S** Principal shall appoint an SLC Coordinator and provide release time to do the following:
 - 1) act as liaison between **SCHOOL**, **SUPERINTENDENT'S** personnel, the **SLC Coach** and the appointed external evaluator;
 - 2) assist the **LEADERSHIP TEAM** and SLC Teaching Teams to achieve the CASLE and SLC goals and best practices;
 - 2) attend all **SUPERINTENDENT** CASLE events including professional development trainings sponsored by **SUPERINTENDENT** CASLE and devise mechanisms for the continuous training of new teachers in order to maintain a high level of effectiveness at the **SCHOOL**.
- c. **SCHOOL** shall establish a School Leadership Team (Leadership Team) including the SLC Coordinator, which will decide upon organizational configurations that, by the conclusion of the fifth year of the grant period, will include every student (9 – 12 grade) in some form of smaller learning environment.
 - 1) Leadership Team will attend monthly trainings with **SUPERINTENDENT/SLC Coach** during the first school year of implementation.
 - 2) Principal and Leadership Team shall attend the CASLE Institutes and the annual CASLE Retreat. Principal shall also attend the accompanying Principals' Roundtable meetings.
- d. **SCHOOL'S** SLC will consist of a heterogeneous interdisciplinary Teaching Team that is responsible for approximately 150 - 200 students. The Teaching Team may be part of a larger system (such as an academy within a larger career pathway).
 - 1) Teaching Team must be guaranteed common planning periods and will meet regularly in order to function as a professional learning community that examines student work, plans instructional activities, and develops learning plans for each of their students.
 - 2) Teaching Team members should be located in classrooms that are either contiguous or in close proximity to one another in order to facilitate the team concept and collaboration.
 - 3) Teaching Team will be given flexibility in the scheduling of their classes to the extent it does not disrupt the overall school management system.
 - 4) Teaching team will solicit parents' and community partners' participation in the program in order to improve communication and expand student learning opportunities beyond the classroom.
- e. **SCHOOL'S** Students should self-select into a team or be assigned randomly without regard to his/her academic ability. (Certain provisions are allowed for English Language Learners and children with Special Needs, although both teachers and students within these specialized areas must still be included as members of teams at least on a partial basis.)

- f. SCHOOL curriculum will remain standards-based, but with an emphasis on the integration of content areas and career technical standards, wherever practical.
- g. SCHOOL will pursue, in earnest, research-based instructional strategies that stress student-centered, contextual, and thematic lessons.
- h. SCHOOL testing will meet with all state-mandated requirements, however, alternative assessments of student skills and knowledge, including authentic assessments, will be emphasized.
- i. SCHOOL'S professional development needs will be based on a general consensus between the Principal, Leadership Team, Teaching Team members and SLC Coach.

4. Duration of Agreement

The term of this Agreement (tentatively) shall be from July 1, 2006 through and including June 30, 2011 (td).

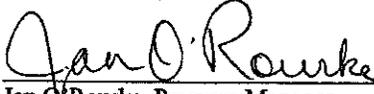
5 Special Provisions

SCHOOL/DISTRICT agrees to the following as a recipient of a contract from a federal grant:

- 1) The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - (a) The copyright in any work developed under this contract;
 - (b) Any rights or copyright to which a SCHOOL/DISTRICT purchases ownership under this Agreement; and
 - (c) Any patent rights with respect to any discovery or invention which arises or is developed in the course of any work in relation to this Agreement.
- 2) The Federal awarding agency is permitted to administrative, contractual, or legal remedies in instances where SCHOOL/DISTRICT violates or breaches the contract terms, and to provide for such sanctions and penalties as may be appropriate.
- 3) SCHOOL/DISTRICT has been informed of all reporting requirements of the grant to the Federal awarding agency as related to the work of this Agreement.
- 4) SCHOOL/DISTRICT authorizes access by the SUPERINTENDENT, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to this agreement for the purpose of making audit, examination, excerpts, and transcriptions.
- 5) SCHOOL/DISTRICT shall retain all required records for three years after SUPERINTENDENT makes final payment for the services of this Agreement and all other pending matters are closed.

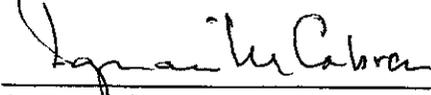
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SAN BERNARDINO COUNTY
SUPERINTENDENT OF SCHOOLS


Jan O'Rourke, Program Manager
Purchasing/Contracts

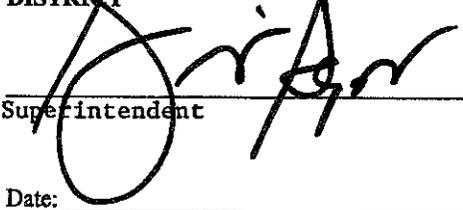
Date: 5/24/06

BLOOMINGTON HIGH SCHOOL


Principal

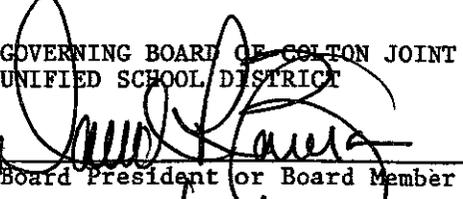
Date: 6/7/06

COLTON JOINT UNIFIED SCHOOL
DISTRICT


Superintendent

Date: _____

GOVERNING BOARD OF COLTON JOINT
UNIFIED SCHOOL DISTRICT


Board President or Board Member

Date: 06/15/06

OFFICE OF THE
SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS
601 North E Street
San Bernardino, CA 92410-3093

AGREEMENT NO. 06/07-0144

AMENDMENT #1

THE AGREEMENT, made and entered into the 23rd day of May 2006, by and between the Office of the San Bernardino County Superintendent of Schools, hereinafter called "SUPERINTENDENT", Bloomington High School, hereinafter called "SCHOOL", and Colton Joint Unified School District, hereinafter called "DISTRICT", is hereby amended this 3rd day of January, 2007 to read as follows:

2. Responsibilities of the DISTRICT

- g. DISTRICT understands funding for budget period 2 is dependent upon a successful performance review of budget period 1 by the U.S. Department of Education.

4. Duration of Agreement

The term of this agreement shall be from July 1, 2006 through and including August 15, 2011.

ADD:

6. Payment of Grant

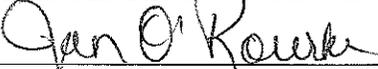
- a. For budget period 1, July 1, 2006 through and including September 30, 2009, SCHOOL shall receive Three Hundred Fifty-five Thousand Two Hundred and no/100 Dollars (\$355,200.00) from SUPERINTENDENT to meet the requirements of this grant.

For budget period 2, October 1, 2009 through and including August 1, 2011, SCHOOL shall receive Two Hundred Thirty-six Thousand, Eight Hundred Forty-six and no/100 Dollars (\$236,846.00) from SUPERINTENDENT to meet the requirements of this grant.

- b. Invoices for reimbursement shall be submitted on a regular basis each year of the grant period identified as September 30th, November 30th, January 31st, May 30th and July 31st. Invoices shall identify actual expenditures and be accompanied by proper documentation. Any remaining sub-grant funds will carry forward to the following fiscal year until the end of budget period 2 on August 1, 2011. Funding for budget period 2 is dependent upon a successful performance review of budget period 1 by the U.S. Department of Education.
- c. The entire grant allocation must be expended with goods and services received prior to August 1, 2011. Final invoices for this grant must be submitted no later than August 15, 2011. Encumbrances will not be reimbursed.

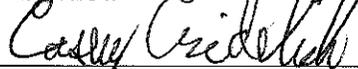
All other terms and conditions of the Agreement described above shall remain in full force and effect.

SAN BERNARDINO COUNTY
SUPERINTENDENT OF SCHOOLS


Jan O'Rourke, Director
Business Support Services

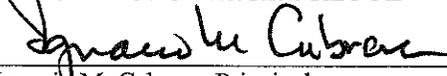
Date: 1/3/07

COLTON JOINT UNIFIED SCHOOL
DISTRICT


Casey Cridelich
Assistant Superintendent, Business

Date: 1-23-07

BLOOMINGTON HIGH SCHOOL


Ignacio M. Cabrera, Principal

Date: 2/1/2007

**OFFICE OF THE
SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS
601 North E Street
San Bernardino, CA 92410-3093**

**AGREEMENT NO. 06/07-0144
AMENDMENT #2**

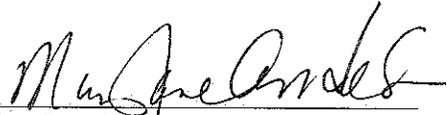
THE AGREEMENT, made and entered into the 23rd day of May 2006, by and between the Office of the San Bernardino County Superintendent of Schools, hereinafter called "SUPERINTENDENT", Bloomington High School, hereinafter called "SCHOOL", and Colton Joint Unified School District, hereinafter called "DISTRICT", is hereby amended this 24th day of September 2010 to read as follows:

4. Duration of Agreement

The term of this Agreement shall be from July 1, 2006 through and including September 30, 2011.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written

**SAN BERNARDINO COUNTY
SUPERINTENDENT OF SCHOOLS**



Mary Jane Andersen, Program Manager
Contracts Management

Date: 9-29-10

BLOOMINGTON HIGH SCHOOL

Date: _____

**GOVERNING BOARD OF
COLTON JOINT UNIFIED SCHOOL
DISTRICT**

Board President or Board Member

Date _____

**COLTON JOINT UNIFIED SCHOOL
DISTRICT**

Date: _____

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

CONSENT ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Approval of Right of Entry Agreement - Baseball Field Access Between Colton Joint Unified School District and City of Grand Terrace and the Community Redevelopment Agency of the City of Grand Terrace

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: The city of Grand Terrace has requested that the District allow the City to construct a concrete path and lighting along the northeast corner of the Grand Terrace High School site.

Future and existing development of the Grand Terrace High School site, as well as adjacent property, will limit access to the City’s baseball fields. The City will maintain and repair all improvements that they install.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board approve the Right of Entry Agreement - Baseball Field Access between Colton Joint Unified School District and City of Grand Terrace and the Community Redevelopment Agency of the City of Grand Terrace.

ACTION: On motion of Board Member _____ and _____, the Board approved the agreement, as presented.

RIGHT OF ENTRY AGREEMENT
Baseball Field Access

This Right of Entry Agreement (“Agreement”) is made and entered into this ___ day of _____ 2010, by and between the Colton Joint Unified School District (“CJUSD”), and the City of Grand Terrace and the Community Redevelopment Agency of the City of Grand Terrace (“City”). CJUSD owns the real property identified by Assessor’s Parcel Number 1167-151-72 within the City of Grand Terrace, County of San Bernardino, State of California (“District Property”) and the City desires to obtain public access to Assessor’s Parcel Numbers 1167-151-73 and 1167-151-61 (“City Property”) by crossing the District Property. CJUSD desires to grant authority to City and the public to enter a portion of the District Property as identified on Exhibit “A” attached hereto and incorporated herein by reference (“Access Passage”).

1. **Scope.** CJUSD, owner of the District Property, hereby grants permission to the City and the public to enter the Access Passage for the limited purpose of traveling to and from City Property. City may also enter the Access Passage the purposes of, at the City’s sole expense, constructing a concrete walkway and lighting on the Access Passage to allow passage to City Property (“Work”). Attached hereto and incorporated herein as Exhibit “B” are plans and specifications for the access passage.

2. **Term.** This Agreement will be effective on the date first written above and shall terminate only upon termination of the baseball field use by the City, unless earlier terminated as set forth in this Agreement.

3. **Compensation.** As compensation for use of the Access Passage, City shall maintain the Access Passage and perform the Work at City’s sole expense.

4. **Condition of Premises.** During the term of this Agreement, City is to avoid damaging or contaminating the Access Passage or District Property, including any existing landscaping or plants, and shall take all reasonable steps to maintain the Access Passage in an orderly and appealing manner. City shall be responsible for and shall pay for any repairs or replacements of any character whatsoever which are occasioned or are made necessary because of the negligence or misuse of the Access Passage by City’s employees or invitees. Following written notice to the City by the District, should the City fail to maintain or repair the Access Passage within thirty (30) days of such notice, during the term of the Agreement, CJUSD may, at CJUSD’s sole discretion, undertake any maintenance or repair of the Access Passage and City shall reimburse CJUSD for the costs of such repairs or maintenance within thirty (30) days of invoice by CJUSD.

At the termination of the Agreement, City will restore the Access Passage to a condition equal to or better than its condition at the commencement of the term of this Agreement improvements associated with the Work and reasonable wear and tear excepted.

5. **Termination.**

A. This Agreement may be terminated by CJUSD immediately if it is determined that City's actions are unsafe or create potential liability to CJUSD. CJUSD may terminate this Agreement upon thirty (30) days written notice to City if City is in default of any provision under this Agreement and fails to cure the default within the thirty (30) day notice period..

B On or before the date of termination of this Agreement, or upon notice that this Agreement is revoked, City shall, at its sole expense, clean up and remove all rubbish and debris, and place Access Passage in the same order and condition as existed at the commencement of this Agreement, improvements associated with the Work and reasonable wear and tear excepted. In the event that City fails to clean up the Access Passage within thirty (30) days of the date of termination, CJUSD may, at CJUSD's sole discretion, undertake any clean up of the Access Passage and City shall reimburse CJUSD for the costs of such clean up or maintenance within thirty (30) days of invoice by CJUSD.

C. Upon termination, expiration or revocation of the Agreement, CJUSD shall retain title to all improvements associated with the Work on the Access Passage.

6. **Access.** Both parties shall make every reasonable effort to keep access to the Access Passage open at all times and shall not interfere the other's activities in any way. Prior to performing the Work, City shall coordinate with the CJUSD, either telephonically or in writing, in order to ensure that CJUSD activities are not disrupted.

7. **Indemnification.** Except as to sole negligence or willful misconduct of the CJUSD, City agrees to indemnify, defend and hold the CJUSD, its officers and employees, harmless from and against all claims, damages, losses, liability, cost or expense, including attorney's fees, which arises out of or is in any way connected with the performance of Work or use of the Access Passage under this Agreement by City or any of City's employees, agents, subcontractors or invitees. City shall also be responsible for any attorneys' fees CJUSD incurs in the event CJUSD has to file any action in connection with this Agreement.

The parties expressly agree that any payment, attorney's fee, costs or expenses the City incurs or makes to or on behalf of an injured employee of the City under the City's self-administered workers' compensation is included as a loss, expense or cost for the purpose of this Section, and that this Section shall survive the expiration or early termination of this Agreement.

8. **Workers' Compensation Insurance.** By executing this Agreement, City certifies that it is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the Work. City shall carry the insurance or provide for self-insurance required by California law to protect CJUSD from claims under the Workers' Compensation Act. Prior to CJUSD's execution of this Agreement, City shall file with CJUSD either a certificate of insurance showing that such insurance is in effect, or that they are

self-insured for such coverage. Any certificate filed with CJUSD shall provide that CJUSD will be given ten (10) days prior written notice before modification or cancellation thereof.

9. **General Liability Insurance.** Prior to CJUSD's execution of this Agreement, City shall provide proof of general liability insurance as required to insure CJUSD against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of City. CJUSD, and its officers, employees and agents, shall be named as additional insureds under the City's insurance policies.

All liability insurance shall be issued by insurance companies authorized to transact liability insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher, or through a Joint Powers Insurance Authority.

General liability insurance policies shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000, unless otherwise approved or reduced by CJUSD.

These minimum amounts of coverage shall not constitute any limitation or cap on City's indemnification obligations under Section 7 hereof.

Any policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to CJUSD by certified or registered mail, postage prepaid.

10. **Hazardous Substances Indemnity.** City expressly agrees to and shall indemnify, defend, release and hold CJUSD, its officers, officials, directors, agents, servants, employees, attorneys and contractors harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorneys' fees, expert fees, and court costs) in any way related to the disposal, treatment, transportation, manufacture, or use of any Hazardous Substances on, in, under, or about the Access Passage by City, or its respective officers, directors, agents, servants, employees or contractors, or by any other third party acting under the control or request of the City, other than CJUSD and its respective officers, agents, servants, employees or contractors. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this Agreement.

11. **Hazardous Substances Defined.** Hazardous Substances shall mean any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to CERCLA, 42 U.S.C. § 9601, et seq.; The Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA"); The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; The Clean Water Act, 33 U.S.C. § 1251, et seq.; The Hazardous Waste

Control Act, California Health and Safety Code (“H. & S.C.”) § 25100, et seq.; the Hazardous Substance Account Act, H. & S.C. § 25330, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, H. & S.C. § 25249.5, et seq.; Underground Storage of Hazardous Substances H.& S.C. § 25280, et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act (H & S.C. § 25300 et seq.); The Hazardous Waste Management Act, H. & S.C. §§ 25170.1, et seq.; Hazardous Materials Response Plans and Inventory H. & S.C. § 25001 et seq.; or the Porter-Cologne Water Quality Control Act, Water Code § 13000, et seq., all as amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum, crude oil or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) polychlorinated biphenyls (PCB), radon gas, urea-formaldehyde, asbestos and lead.

12. **Venue and Attorneys' Fees.** Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of San Bernardino, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event any party hereto shall bring suit to enforce any term of this Agreement or to recover any damage for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees, to be set by the court in such action.

13. **Nondiscrimination.** During City’s performance of this Agreement, it shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, City agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

14. **Notices.** Service of any notices, bills, invoices or other documents required or permitted under this Agreement shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows:

Colton Joint Unified School District
1212 Valencia Dr.
Colton, CA 92324
Attn: Darryl Taylor

City of Grand Terrace
22795 Barton Road
Grand Terrace, CA 92313
Attn: City Clerk

**City of Grand Terrace
Community Redevelopment
Agency**
22795 Barton Road
Grand Terrace, CA 92313
Attn: Agency Secretary

15. **Assignment.** It is mutually understood and agreed that this Agreement is personal to both parties and may not be assigned or transferred in any way. Any transfer shall be void and of no effect.

16. **Authority.** The individuals executing this Agreement each represent and warrant that they have the legal power, right and actual authority to bind their respective entities to the terms and conditions hereof and thereof.

17. **Severability.** Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant, and/or restriction, of this Agreement and the remainder of the Agreement shall continue in full force and effect.

18. **Compliance with Law.** City shall comply with all laws, ordinances, rules, and regulations applicable to the Access Passage, and shall be responsible to obtain any and all permits which may be necessary pertaining to City's activities on or about the Access Passage. CJUSD shall ensure that the Work complies with all applicable federal, state or local laws, rules or regulations, including compliance with Division of the State Architect ("DSA") building requirements, if applicable.

19. **Background Checks.** In the event any portion of the Work or City's activities on the Access Passage will occur when students are present, City shall conduct criminal background checks, through the California Department of Justice, of all employees, agents, and contractors providing services to City upon the Access Passage pursuant to this Agreement, and shall provide to the CJUSD a list of the names of the employees and/or agents of City who may come into contact with pupils upon the Access Passage, pursuant to Education Code section 45125.1. In the alternative, City may elect to ensure the safety of pupils pursuant to Education Code section 45125.2 by one or more of the following methods: 1) the installation of a physical barrier at the worksite to limit contact with pupils, or 2) continual supervision and monitoring of all employees or agents of City by an employee or agent of City whom the Department of Justice has ascertained has not been convicted of a serious felony.

20. **Liens and Claims.** City will not permit any mechanics' materialmen's, or similar liens or claims to stand against the Access Passage for labor or material furnished in connection with any work performed by City under this Agreement. Upon reasonable and timely notice of any such lien or claim delivered to City by CJUSD, City may bond and contest the validity and the amount of such lien, but City will immediately pay any judgment rendered, will pay all proper costs and charges, and will have the lien or claim released at its sole expense.

21. **Legal Interpretation of Instrument.** The parties expressly understand and agree that this Agreement constitutes a non-exclusive agreement for use of the Access Passage, and is neither intended by the parties, nor shall it be legally construed to convey, a leasehold, easement,

or other interest in real property. Should either party be compelled to institute arbitration, legal, or other proceedings against the other for or on account of the other party's failure or refusal to perform or fulfill any of the covenants or conditions of this Agreement on its part to be performed or fulfilled, the parties agree that the rules and principles applicable to Agreements shall govern such actions or proceedings. This Agreement shall be governed by the laws of the State of California.

22. **Entire Agreement; Amendment.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the date hereof. This Agreement may not be changed except in writing executed by both parties.

23. **Successors, Assignment.** This Agreement shall be binding and inure to the benefits of the successors of the respective parties. This Agreement may only be assigned upon the written consent of both parties.

24. **Exhibits.** The following exhibits which are attached hereto are incorporated herein and made a part of this Agreement:

- Exhibit "A" - Map of Access Passage
- Exhibit "B" - Plans and Specifications for Work

25. **Recitals.** The Recitals are incorporated into this Agreement as though fully set forth herein.

26. **Execution in Counterpart.** This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date and year first written above.

COLTON JOINT UNIFIED SCHOOL DISTRICT

By: _____

ATTEST:

Approved as to Form:

CJUSD Attorney

CITY OF GRAND TERRANCE

By: _____
City Manager

ATTEST:

City Clerk

Approved as to Form:

City Attorney

**CITY OF GRAND TERRANCE
COMMUNITY REDEVELOPMENT
AGENCY**

By: _____
Agency Executive Director

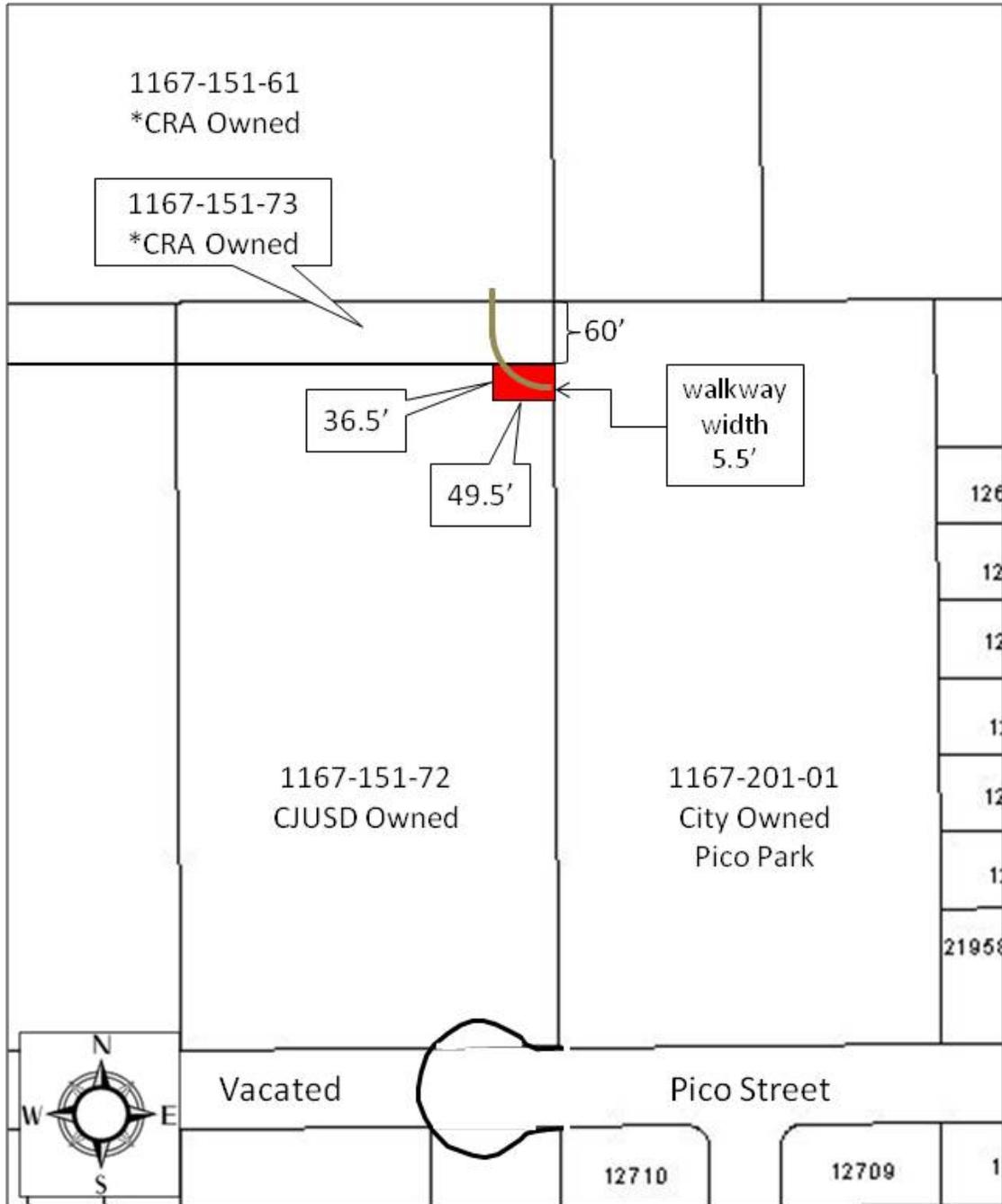
ATTEST:

Agency Secretary

Approved as to Form:

Agency Attorney

Exhibit A



*Community Redevelopment Agency, City of Grand Terrace (CRA)

Exhibit "B"

Insert Plans and Specifications for the Work



AREA OF WORK



BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Ingrid Munsterman, Assistant Superintendent, Human Resources Division

SUBJECT: Approval of Personnel Employment and Resignations

GOAL: Human Resources Development

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND: Administrative Regulations AR 4112 and 4212 *Appointment and Conditions of Employment* states: *Upon recommendation of the Superintendent, the Governing Board shall approve the appointment of all certificated (AR 4112) and classified (AR 4212) employees.*

Listed below are the recommendations for personnel employment along with their respective positions and sites.

Employment

I-A Certificated – Regular Staff

- 1. Kittilson, Kristin SDC/LH Teacher - ROHMS
- 2. Ramirez, Tania Spanish Teacher – CHS
- 3. Rasouli Javaheri, Sima Math Teacher – ROHMS
- 4. Terry, Karen SDC/OLH Teacher – CHS

I-B Certificated – Activity/Coaching Assignments - None

I-C Certificated – Hourly – None

I-D Certificated – Substitute Teacher

- 1. Rocha, Priscilla

II-A Classified – Regular Staff

- 1. Maestas, Frankie J. Campus Supervisor – Washington

II-B Classified – Activity/Coaching Assignments

- 1. Cardoza Jr., David HD Varsity Wrestling (walk-on) returning – CHS

II-C Classified – Hourly

- 1. Cox, Ruth Sub Bus Driver
- 2. Favela, Bernadette Sub Nutrition Services Worker
- 3. Salinas, Shelly Sub Nutrition Services Worker

II-D Classified – Substitute

- 1. Leal, Irene Sub Noon Aide – Smith
- 2. Salinas, Shelly Sub Noon Aide – Cooley Ranch
- 3. Smith, Veronica Sub Noon Aide – Smith

Resignations

I Certificated

- 1. **Caceres, Marisa** SDC/LH Teacher – BMS
Employed October 20, 2010; resignation effective October 28, 2010. Medical reasons.
- 2. **Traynor, Patrick** Director – D.O.
Employed August 5, 1999; resignation effective November 3, 2010. Accepted position elsewhere.

II Classified

- 1. Flores, Paula State Preschool Inst. Asst. – Wilson
Employed October 18, 2010; resignation effective November 4, 2010. Accepted position elsewhere.

RECOMMENDATION: That the Board approve personnel employment and resignations as presented.

ACTION: On motion of Board Member _____ and _____, the Board approved the above recommendation as presented.

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ACTION ITEM

TO: **Board of Education**

PRESENTED BY: Ingrid Munsterman, Assistant Superintendent, Human Resources Division

SUBJECT: **Approval of Conference Attendance**

GOAL: Human Resources Development

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND:

Patt Haro – D.O./Supt.’s Office Board Member	<i>CSBA Annual Conference & Trade Show</i> December 2-4, 2010 San Francisco, CA Board Funds: \$2,244.45
Randall Cenicerros – D.O./Supt.’s Office Incoming Board Member	<i>CSBA Annual Conference & Trade Show</i> December 1-4, 2010 San Francisco, CA Board Funds: \$1,519.54
Corina Paramo – CHS Stacey Baker John Kitchen Richard (Terry) Urban Peter Goldkorn Teachers	<i>RIMS AVID Site Team Conference</i> December 6-7, 2010 Rancho Mirage, CA AVID/Lottery Funds: \$2,250.00
Ignacio Cabrera – BHS Principal Simona Welzel Counselor Stacie Ziegler Holly Todd Leilani Bautista Ray Brown Yeseida De La Torre Ramona Martinez Matthew Welzel Teachers	<i>RIMS AVID Site Team Conference</i> December 6-7, 2010 Rancho Mirage, CA AVID Funds: \$4,617.90
Lauren Rumpf – THMS Marisa Bline Rita Combs Erin Diaz Teachers	<i>RIMS AVID Site Team Conference</i> December 6-7, 2010 Rancho Mirage, CA EIA/SCE Funds: \$1,450.00
Jerry Almendarez – DO/Supt.’s Office Superintendent	<i>ACSA – Superintendent’s Symposium</i> January 26-28, 2011 Monterey, CA General Funds: \$1,145.96
Misty Wright – BHS Teacher/Activities Director	<i>CADA Annual Conference</i> March 2-5, 2011 San Diego, CA SLI Funds: \$1,565.52

Dara DeVicariis – CHS
Teacher

*National Science Teacher
Conference*
March 10-13, 2011
San Francisco, CA
Tier III/SLI Funds: \$545.00

**BUDGET
IMPLICATIONS:**

General Fund Expenditure: \$18,867.37

RECOMMENDATION:

That the Board approve conference attendance as presented.

ACTION:

On motion of Board Member _____ and
_____, the Board approved the above
recommendation as presented.

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ACTION ITEM

TO: Board of Education

PRESENTED BY: Ingrid Munsterman, Assistant Superintendent, Human Resources Division

SUBJECT: Approval to Assign Teacher Under CA Commission on Teacher Credentialing Variable Term Waiver (2010-11)

GOAL: Personnel Development

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND: Title 5 Section 80122(j) requires a separate board agenda item to verify that the notice of intent to employ and assign a teacher in an identified position under a Variable Term Waiver has been made public and approved by the governing board of the employing school district in a public meeting.

Due to a recent change in CTC credentialing requirements adding another level of certification for services to students with autism, the District has encountered the necessity to assign certain “mild/moderate-level” special education teachers under a Variable Term Waiver for the Added Authorization in Special Education: Autism Spectrum Disorders. The Variable Term Waiver is valid for one year.

The District requests approval to assign the following “mild/moderate-level” special education teachers under a Variable Term Waiver authorization:

Kittilson, Kristin	SDC/LH Teacher, Ruth Harris MS Preliminary Education Specialist: Mild/Moderate
Terry, Karen	SDC/LH Teacher, Colton HS Preliminary Education Specialist: Mild/Moderate

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board approve the assignment of the named “mild/moderate-level” special education teachers in the identified positions utilizing a CA Commission on Teacher Credentialing Variable Term Waiver option for the 2010-11 school year, as presented.

ACTION: On motion of Board Member _____ and _____, the Board approved the recommendation as presented.

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Approval of Purchase Orders

GOAL: Student Performance / Personnel Development

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND: Purchase orders in excess of \$10,000 are presented to the Board of Education for approval.

BUDGET IMPLICATIONS: General Fund Expenditures: \$422,276.14

RECOMMENDATION: That the Board approve Purchase Orders in excess of \$10,000 for a total of \$422,276.14.

ACTION: On motion of Board Member _____ and _____, the Board approved purchase orders as recommended.

<u>P.O.</u>	<u>VENDOR</u>	<u>DESCRIPTION</u>	<u>RESOURCE CODE*</u>	<u>RESOURCE</u>	<u>AMOUNT</u>
112000	Educational Consulting Svs.	Consult Svs./Adm. Svs.	0000	Revenue Limit/Unrestricted	\$120,000.00
112064	Alphavista Services, Inc.	Contract Svs./PPS	6500	Special Ed.	\$75,000.00
112073	Coientfirst Consult Grp LLC	Consult Svs./I.T.	0000	Revenue Limit/Unrestricted	\$10,350.00
112082	A Division Skills Tutor	Tech. Licenses/Biling. Ed.	4203/6286	NCLB: Title III LEP Stdnt Prg. / English Lang. Learning Train	\$28,866.00
112091	SBCSS	Conf. Exp./Staff Dev.	4035	NCLB Title II Part A	\$18,750.00
112101	Maintex	Cust. Supp./Purchasing	0000	Revenue Limit/Unrestricted	\$16,710.14
112138	New Directions	Consult. Svs./Proj. Cent. Adm.	3010	NCLB: Title 1, Pt A Grnt Low Inc.	\$125,000.00
112150	CSMG Inc.	Consult. Svs./I.T.	0000	Revenue Limit/Unrestricted	\$27,600.00
TOTAL					\$422,276.14

***LEGEND**

0000	Revenue Limit/Unrestricted	3320	Sp Ed-Idea Presch Loc Entl Ris
0001	Child Dev. Facilities	3322	ARRA Idea Pt B, Earl Intervent
0100	Microsoft Voucher Prg-Schools	3550	VOC Prgs-Voc & Appl Secndry & Ad
0105	Microsoft Voucher Prg-Other	4035	NCLB Title II Part A
0356	RS7156 IMFRP	4036	NCLB: Title II, Part A Prin Trn
0110	E-Rate Technology Program	4045	NCLB: Title II Part D
0115	Best Practices Cohort	4203	NCLB: Title III LEP Stdnt Prg.
0305	RS6405 Schl Safety & Violence Prv	5035	CD -Blk Grnt – 25% Qlity/Discrtn
0325	RS7325 Stff Dev:Admin Training	5080	CD-Dep Care-Pub Law-Chld Care
0330	RS2430 Community Day Schl	5095	CD Infant/Tddler Capacity Bldg
0340	RS7140 GATE	5210	Head Start
0350	RS6350 CRY-ROP	5310	Child Nutrition-School Program
0355	RS7055 CASHEE Intensive Inst.	5315	Child Nutrition: ARRA Equip
0356	RS7156 IMFRP	5630	NCLB: Title X Mck-Vnto Homeless
0360	RS6760 Arts & Music BG	5640	Medi-Cal Billing Option
0367	RS6267 NB Certification	5850	Smaller Learning Community
0370	RS7294 Stff Dev: Mth 7 Read SB472	6010	After Schl Ed & Safety (Ases)
0371	RS7271 PAR	6055	Child Care & Dev – State Preschool
0380	RS7080 7-12 Counselors	6060	Child Care and Dev. – Alt Pymnt Prg.
0385	RS6285 CBET	6130	Child Care Center-Based Resrve
0390	RS7390 AB825 Pupil Rentention BG	6275	Teacher Recruitment & Retention
0391	RS6091 CAL-SAFE Supp Svs	6286	English Lang. Learning Train
0392	RS6092 CAL-SAFE Child Care	6300	Lottery: Instructional Matl
0393	RS7393 AB825 Staff Dev BG	6360	ROP/C-Handicapped Pupils
0394	RS7394 AB825 Targeted Inst. Imp	6405	School Violence – School Safety
0395	RS7395 AB825 Schl & Lib Imp BG	6500	Special Ed.
0396	RS7396 Schl Site Disc Blk Grnt	6520	Sp Ed-Project Workability
0750	Mandated Costs Incentive	6530	Sp Ed-Low Incidence
0790	Donations, Misc.	6535	Sp Ed Personnel Development
1100	State Lottery Revenue	6660	CIG/TBCO PDTS SRTX Fnd-Entl Gr
1300	Class Size Reduction K-3	7010	Agrilcultural Vocational Ed.
3010	NCLB: Title 1, Pt A Grnt Low Inc.	7090	Economic Impact Aid-SCE
3011	NCLB: ARRA Title I, Pt A Basic	7091	Economic Impact Aid-LEP
3025	NCLB: Title 1, Pt D SBPRT2 N&D	7230	Transport – Home to School
3185	NCLB: Title 1, Pt A, Pl Corr Actn	7240	Transporation Spec. Ed.
3200	St Fi St Fiscal StabilZtn Fund (ARRA)	7400	QEIA-Quality Educ. Invstment Act
3310	Sp Ed-Idea Bas Grnt Entl	8150	RMA-Ongoing Major Maint.
3311	Sp Ed-Idea B, Sec611, Prvt Schls	9005	Medic-Cal Admin. Activities (MAA)
3313	ARRA Idea Pt B, Sec611 Local	9010	Other Local
3314	ARRA Idea Pt B,Sec611 Prvt Sch	9015	APIP (Advncd Plcmn Incntv Prg)
3315	Sp Ed-Idea Presch Entl Non Ris	9120	GO BOND:MEAS G 2008 SERIES A
3319	ARA Idea Pt B, Sec 619 Preschl	9811	CAPITAL FACILITIES ACCT FUND

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: **Board of Education**

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: **Approval of Disbursements**

GOAL: Budget Planning

STRATEGIC PLAN: Strategy #1 – Communication Strategy #4 – Facilities
Strategy #2 – Curriculum Strategy #5 – College Career
Strategy #3 – Decision Making Strategy #6 – Character

BACKGROUND: The Board of Trustees payment report is available at the Board of Education meeting for review.

RECOMMENDATION: That the Board approve disbursements paid as listed, from batch #562 through batch #608 for the sum of **\$1,620,727.17**

ACTION: On motion of Board Member _____ and _____ the Board approved the disbursements as listed.

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Adoption of Resolution No. 11-13 Authorizing the Execution and Delivery of a Site Lease, Sublease Agreement and Construction Services Agreement and Other Acts Relating to the Construction of the Colton High School Math & Science Building Project

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: As part of a Request for Qualifications process completed on April 23, 2010, nine firms were prequalified to provide services under a lease-leaseback agreement. Of those nine, four were issued a Request for Proposal (RFP) to provide construction services for the Colton High School Math & Science Building Project. Three of the four general contractors, Echo Pacific Construction, DJM Construction Company, Inc. and Lusardi Construction, submitted responses, while the fourth firm, Schreder Construction, declined to submit a response.

Based upon the completeness and thoroughness of the proposals, the selection criteria outlined in the RFP, and a comprehensive review, DJM Construction Company, Inc. is recommended to site lease, sublease agreement and construction services agreement and other acts relating to the construction of the Colton High School Math & Science Building Project.

BUDGET IMPLICATIONS: Bond Fund 21 Measure G Expenditure: \$12,603,719

RECOMMENDATION: That the Board adopt Resolution No. 11-13 authorizing the execution and delivery of a site lease, sublease agreement and construction services agreement and other acts relating to the construction of the Colton High School Math & Science Building Project.

ACTION: On motion of Board Member _____ and _____, the Board adopted the resolution, as presented.

RESOLUTION NO. 11-13

RESOLUTION OF THE BOARD OF EDUCATION OF THE COLTON JOINT UNIFIED SCHOOL DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, SUBLEASE AGREEMENT AND CONSTRUCTION SERVICES AGREEMENT AND OTHER ACTS RELATING TO THE CONSTRUCTION OF THE COLTON HIGH SCHOOL MATH & SCIENCE BUILDING PROJECT

WHEREAS, the Colton Joint Unified School District (“District”) desires to construct the Colton High School Math & Science Building, as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (“Site”), as a lease-leaseback project whereby the District will lease the Site which the District owns to DJM Construction Company, Inc. (“Builder”) who will construct the Project thereon and lease the Project and underlying Site back to the District;

WHEREAS, Education Code Section 17406 authorizes the governing board of a school district, without advertising for bids, to let to any person, firm or corporation any real property belonging to the district if the instrument by which such property is let requires the lessee to construct on the demised premises, a building or buildings for use of the school district during the term thereof, and provides that title to the building shall vest in the school at the expiration of that term;

WHEREAS, it is in the best interest of the District to cause the construction of the Project through lease and sublease of the Site pursuant to Education Code Section 17406;

WHEREAS, in order to complete the Project, it is necessary that the District enter into the Site Lease, in which the Site will be leased to Builder, and a Sublease Agreement which provides for the sublease of the Site and the lease of the Project by Builder to the District, and that certain other action be taken and authorized;

WHEREAS, the Sublease Agreement includes construction provisions with which Builder shall comply with respect to construction of the Project (“Construction Services Agreement”);

WHEREAS, pursuant to Section 17402 of the Education Code, the plans and specifications for the Project must be prepared and adopted prior to entering into Site Lease and the Sublease Agreement for the Project (“Plans and Specifications”);

WHEREAS, the Plans and Specifications have been approved by the Division of State Architect (“DSA”);

WHEREAS, in order to ensure that moneys sufficient to pay all costs will be available for the Project, the District desires to appropriate funds for the Project from its current fiscal year as provided by the Sublease Agreement;

WHEREAS, the Board has been presented with the Plans and Specifications for the Project and has examined and approves of such documents, subject to minor revisions, if any, by DSA, and subject to the delegation of authority provided by the Board as set forth below;

WHEREAS, the Board has been presented with the form of each document referred to herein relating to the transaction contemplated hereby and the Board has examined and approved each document and desires to authorize and direct the execution of such documents and the consummation of such transaction, subject to the delegation of authority provided by the Board as set forth below;

WHEREAS, all acts, conditions, and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transaction authorized hereby, do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner, and upon the terms herein provided.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE COLTON JOINT UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Site Lease and Sublease Agreement. The form of agreement entitled "Site Lease," the form of agreement entitled "Sublease Agreement" and the form of agreement entitled "Construction Services Agreement," each presented at this meeting and each to be entered into by and between the District and Builder which together provide generally for (i) the lease by the District of the Site to Builder, (ii) the sublease of the Site and the lease of the Project by Builder to the District, and (iii) the payment of certain lease payments by the District under the Sublease Agreement in an amount equal to the aggregate construction costs for the Project as set forth in the Construction Services Agreement ("Lease Payments") are hereby approved subject to any revisions which are acceptable to both District's Superintendent ("Superintendent") and District's legal counsel. The Superintendent or their designee is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver to Builder such agreements, once finalized, pursuant to the delegation of authority provided for hereby.

Section 3. Approval of Process. The Governing Board hereby approves of the lease-leaseback process and approves of the Guaranteed Maximum Price amount of Twelve Million One Hundred Twenty Three Thousand Seven Hundred Nineteen Dollars (\$12,123,719) plus a District Contingency amount of Four Hundred Eighty Thousand Dollars (\$480,000) for a total amount of Twelve Million Six Hundred Three Thousand Seven Hundred Nineteen Dollars (\$12,603,719), for the construction of the Project pursuant to the terms of the Construction Services Agreement.

Section 4. Approval of Plans and Specifications. The Governing Board hereby approves of the DSA-approved Plans and Specifications for the Project.

Section 5. Validation Action. The Board hereby authorizes District counsel to file and litigate an appropriate validation action in the appropriate court with respect to the construction of the Project and the matters approved by this Resolution.

Section 6. Other Acts; Delegation. The District's Governing Board hereby approves a delegation of authority and appoints the District Superintendent, or the designee of the District Superintendent, who is/are hereby authorized and directed, to execute and deliver the Site Lease, Sublease Agreement and Construction Services Agreement as provided by Section 2 above, execute and deliver documents and/or negotiate documents with Builder, execute court pleadings or documents necessary to effectuate the prompt litigation of the validation action, and to do any and all things necessary, in consultation with the staff, that they may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution, all subject to ratification of the Board of Education, if necessary. Said delegation shall be valid during the construction of the Project, or until otherwise rescinded by the Governing Board.

Section 7. Effective Date. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED this ___ day of _____, 2010 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

I, _____, President of the Colton Joint Unified School District Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of the resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

President of the Board of Education
Colton Joint Unified School District

I, _____, Clerk of the Board of Education of the Colton Joint Unified School District, do hereby certify that the foregoing Resolution was introduced and adopted by the Board of Education of the Colton Joint Unified School District at a regular session meeting thereof held on the ___ day of _____ 2010, by the following forgoing vote.

Clerk of the Board of Education
Colton Joint Unified School District

EXHIBIT "A"

DESCRIPTION OF SITE

Property Description: Colton High School, a 42 acre site. APN 162-071-01; 162-073-01 through 09; 162-261-01 and 02; 162-262-01 through 03.

Property Address: 777 West Valley Boulevard, Colton, CA 92324

**COLTON HS MATH & SCIENCE BUILDING PROJECT
CONSTRUCTION SERVICES AGREEMENT**

Between

COLTON JOINT UNIFIED SCHOOL DISTRICT

and

DJM Construction Company, Inc

Dated as of October 7, 2010

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EXHIBIT "B"	Master Budget
EXHIBIT "C"	DVBE Requirements
EXHIBIT "D"	Payment Bond
EXHIBIT "E"	Performance Bond
EXHIBIT "F"	Contractor Fingerprinting Requirements
EXHIBIT "F" (cont.)	Subcontractor Fingerprinting Requirements
EXHIBIT "G"	Contractor's Certificate Regarding Workers' Compensation
EXHIBIT "H"	Drug-Free Workplace Certification
EXHIBIT "I"	Asbestos Free Materials Certification

COLTON HS MATH & SCIENCE BUILDING PROJECT

CONSTRUCTION SERVICES AGREEMENT

This Construction Services Agreement is entered into as of October 7, 2010 by and between the Colton Joint Unified School District, a California School District organized and existing under the laws of the State of California (hereinafter called the "District"), and DJM Construction Company, Inc, a corporation with its principal place of business in California ("Contractor").

RECITALS

WHEREAS, on December 12, 2002, the District entered into an agreement with Harley Ellis Devereaux (the "Architect") to provide architectural services for the District for the purpose of developing plans and specifications for the construction of the Colton HS Math & Science Building site (the "Project"); and

WHEREAS, the District has determined that it is necessary to retain the services of a construction firm to assist in modifying the plans and specifications for, and to provide for the construction of, the Project; and

WHEREAS, California Education Code section 17406 permits the governing board of a school district, without advertising for bids, to lease to any person, firm, or corporation any real property owned by the District if the instrument by which such property is leased requires the lessee to construct on the leased premises, or provide for the construction thereon, of a building for the use of the school district, during the term of the lease, and provides that title to that building shall vest in the school district prior to or at the expiration of the lease; and

WHEREAS, in connection with the approval of this Construction Services Agreement, the District will enter into a site lease with Contractor (the "Site Lease"), under which it will lease to the Contractor the Colton HS Math & Science Building Site, and improvements thereon, as described in Exhibit "A" of the Site Lease (the "Site") in order for Contractor to construct improvements to this existing school site; and

WHEREAS, the Contractor will lease the Site and the Project back to the District pursuant to a Sublease Agreement (the "Sublease") under which the District will be required to make sublease payments to the Contractor for the use and occupancy of the Site and Project; and

WHEREAS, at, or prior to, the expiration of the Lease and Sublease terms, title to the Project shall vest in the District; and

WHEREAS, the District and Contractor desire to enter into this Construction Services Agreement to ensure that the Project will meet the District's expectations prior to the construction of the Project and the Lease of the Project back to the District; and

WHEREAS, Contractor is experienced in construction of the type of improvements included in the Project that are desired by the District, is duly licensed as a contractor in the State of California, and is willing to perform construction work for the District, all as more fully set forth herein.

WHEREAS, Upon completion of the Construction Documents the Contractor will have thoroughly investigated the site conditions and reviewed the Construction Documents to establish that there are no known problems with respect to the site conditions or the Construction Documents and that Contractor can and will construct the Project for the Guaranteed Maximum Price as set forth and defined in Article 4 of this Construction Services Agreement, and Contractor will not seek any additional compensation whatsoever, including, without limitation, any requests based upon known site conditions or any requests, except for such additional compensation provided for herein based upon errors or omissions contained within the plans and specifications or Construction Documents.

NOW, THEREFORE, in consideration of the covenants hereinafter set forth, District and Contractor agree as follows:

SECTION 1 CONTRACTOR'S DUTIES AND STATUS

Contractor accepts the contractual relationship established between it and District by this Construction Services Agreement, and Contractor covenants with District to furnish reasonable skill and judgment in constructing the Project as set forth in the Construction Documents, as defined in Section 2(D) for the Project which are described and/or set forth herein as Exhibit "A." Contractor agrees to furnish efficient business administration and superintendence and to attempt to furnish at all times an adequate supply of professionals, workers, and materials and to perform the work appropriately, expeditiously, economically, and consistent with the Construction Services Agreement and Construction Documents as defined in Section 2, paragraphs A and D, below.

SECTION 2 DEFINITIONS

- A. **"Construction Services Agreement"** means this Construction Services Agreement, together with any duly authorized and executed amendments hereto.
- B. **"Construction" or "Construction Services"** means all labor and services necessary for the construction of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction as fully described in the Construction Scope of Work set forth in Section 8 and Exhibit "A." Unless otherwise expressly stipulated, Contractor shall perform all work and provide and pay for all materials, labor, tools, equipment and utilities necessary for the proper execution and completion of the Project shown on the drawings and described in the plans and specifications set forth in Exhibit "A."
- C. **"Construction Costs"** means any and all costs incurred by the Contractor with respect to the construction and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the date hereof, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, Contractors' and developers' overhead and supervisors' fees and costs directly allocable to the Project, all costs and expenses including any taxes or insurance premiums paid by the Contractor with respect to the Property, administrative and other expenses necessary or incident to the Project. The term "Construction Costs" includes all Contractor's costs associated with preparing or generating additional copies of any Construction Documents, as defined below, related to or required for the Project, including preparation or generation of additional plans and specifications for Contractor's subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.
- D. **"Construction Documents"** means the final drawings, profiles, cross sections, design development drawings, construction drawings, and supplemental drawings based on the plans and specifications developed for the Project, including any reference specifications or reproductions prepared by the Architect and specifications approved by District and the Division of the State Architect ("DSA") which show or describe the location, character, dimensions or details of the Project and specifications for construction thereof.
- E. **"Contract Documents"** means those documents which form the entire Contract by and between District and Contractor. The Contract Documents consist of this Construction Services Agreement, including all exhibits and attachments hereto, the Construction Documents, the Site Lease and the Sublease.
- F. **"Guaranteed Maximum Price" or "GMP"** means the Guaranteed Maximum Price established pursuant to Section 4 to be paid to Contractor for Contractor's construction of the Project hereunder, subject to any adjustments for Extra Work/Modifications as provided in Section 9.
- G. **"Project"** means the improvements and equipment to be constructed and installed by the Contractor, as more particularly described and/or referenced in Exhibit "A." attached hereto.

- H. "Site" means those certain parcels of real property and improvements thereon (if any) more particularly described in Exhibit "A" of the Site Lease.
- I. "Site Lease" means the Site Lease of even date herewith, by and between the District and the Contractor together with any duly authorized and executed amendment thereto under which the District leases the Site to the Contractor.
- J. "Subcontractor" means any person or entity, including trade contractors, who have a contract with Contractor to perform any work on the improvements to the Site.
- K. "Sublease" means the Sublease of even date herewith by and between the District and Contractor together with any duly authorized and executed amendment hereto under which the District subleases the Site from the Contractor.
- L. "Sublease Payment" means any payment required to be made by the District pursuant to Section 7 of the Sublease.
- M. "Sublease Prepayment" means any payment required to be made by the District pursuant to Section 26 of the Sublease.

SECTION 3 ADDITIONAL SERVICES; DISTRICT CONTINGENCY

If the District requests Contractor to perform additional services ("Additional Services") not described in this Construction Services Agreement, Contractor shall provide a cost estimate and a written description of the Additional Services required to perform such work. The District shall set aside a contingency amount of FOUR HUNDRED EIGHTY THOUSAND Dollars (\$480,000) "District Contingency", which District Contingency shall be used for such Additional Services. Compensation for such Additional Services shall be negotiated and agreed upon in writing, in advance of Contractor's performing or contracting for such Additional Services and paid to Contractor in addition to the GMP established pursuant to Section 4 hereof. In the absence of such written agreement, the District will not compensate Contractor for such work, and the Contractor will not be required to perform it. Nothing in this Construction Services Agreement shall be construed as limiting the valuation and amount to be paid to Contractor for such Additional Services or its implementation should a written agreement for such services be executed. Contractor shall not be entitled to compensation for Additional Services required as a result of Contractor's acts, errors or omissions.

Additionally, while District is in no way limited by the manner in which it decides to utilize the District Contingency, said District Contingency shall not be used for any costs associated with errors or omissions in the plans and specifications until such time, if ever, the Errors and Omissions Allowance (defined in Section 4(A)(2) below) has been fully exhausted. Any funds remaining in the District Contingency at the completion of the Project shall remain unspent and remain allocated to the District.

SECTION 4 ESTABLISHMENT OF GUARANTEED MAXIMUM PRICE "GMP"

- A. GMP. The GMP for the Project shall be TWELVE MILLION ONE HUNDRED TWENTY THREE THOUSAND SEVEN HUNDRED NINETEEN DOLLARS (\$12,123,719). The GMP is based upon plans and specifications, soils report, and project timetable documents existing and reviewed by the Contractor at the time this Construction Services Agreement is entered into as more fully described and referenced in the Scope of Work set forth in Exhibit "A." Contractor's detailed line item costing of the Project, or Master Budget, totaling the GMP is attached hereto as Exhibit "B." Furthermore, District and Contractor represent and warrant that the GMP consists of Sublease Payments which incorporate tenant improvement/progress payments to be paid by District during the course of construction, plus the additional sums to be paid as a portion of the rental of the Site. District and Contractor represent and warrant that 1) the total amount of Sublease Payments and optional prepayment thereof includes the total rental for the Project, which

the fair market value for the Project, 2) said rental amount has been incorporated into the GMP in consideration and inducement of this document and the Site Lease and Sublease Agreement, the uses and purposes which may be served by the Project, and the benefits there from which will accrue to the District and the general public, and 3) said rental amount shall be paid by the District as a part of the GMP, pursuant to the terms of this document, with District non-local match contribution local funds. The parties agree that the GMP includes an agreed upon fair market rental value to be paid as rental/lease payments or prepayment thereof, therefore no additional rental payments shall be made by District. Sublease Payments by the District pursuant to the Sublease and Section 20 hereof shall be commensurate with the GMP. The GMP is subject to adjustments for Extra Work/Modifications in accordance with the provisions of Section 9 and adjustments for reductions in the Scope of Work pursuant to the provisions of Section 4(B), below. The GMP includes the cost of all labor, materials, equipment, general conditions, overhead, profit, Contractor Contingency, and Errors and Omissions Allowance (as defined directly below).

- (1) Contractor Contingency. Within the GMP is a line item amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000) for the Contractor Contingency, which is for the exclusive use of the Contractor, as approved by the District, to pay for miscellaneous work items, which are required to complete the Project. The Contractor shall not use the Contractor Contingency to pay for costs related to extending or enhancing Contractor's staff. The Contractor shall not use the Contractor Contingency to pay for costs related to the following: (a) errors or omissions in the construction documents; (b) discrepancies with the plans and specifications as pertains to applicable building code requirements; (c) substitutions of subcontractors unless required by the District (d) and/or enhancements or additions to the Scope of Work desired by the District. Costs related to (a)-(d) above will be paid for pursuant to the provisions of Section 9, below, the allowance set forth in this Section, subsection (2), or the District Contingency. Any funds remaining in the Contractor Contingency upon completion of the Project shall be retained by the District, provided however, that One Hundred Percent (100%) of any remaining Contractor Contingency derived from the Contractor's share of Savings as set forth in Section 6 below, shall be retained by Contractor.

- (2) Errors and Omissions Allowance. Within the GMP is a line item amount of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) to cover errors and omissions in the Plans and Specifications ("Errors and Omissions Allowance"). In the event errors or omissions are discovered in the Plans and Specifications which make strict compliance with the specifications impractical, Contractor shall notify District of the need for such work by placing the matter on the agenda of regularly scheduled construction meetings with District for discussion as soon as practicable after the need for such work is determined. Additionally, Contractor shall submit to the District for its consideration and approval or disapproval, a written request for the work before such work is performed. If District approves such request in writing, the costs of the work, shall be added to or deducted from the Errors and Omissions Allowance within the GMP. Any funds remaining in this Errors and Omissions Allowance at the completion of the Project shall remain unspent and remain allocated to the District.

- B. The District at all times shall have the right to reduce the scope of the Project. If the District reduces the scope of the Project, the GMP shall be reduced to contemplate the reduced Scope of Work, pursuant to the provisions of Section 9. To the extent possible, it is the mutual goal of the District and Contractor to maximize the Scope of Work as allowed by the GMP.

SECTION 5 NOTICE TO PROCEED

After execution of this Construction Services Agreement and the Site Lease and Sublease between the parties, the District shall issue a notice to the Contractor to proceed with the Project ("Notice to Proceed"), which Notice to Proceed shall include the date upon which commencement for the

validating the Contract Documents, including but not limited to this Construction Services Agreement, and the Site Lease and the Sublease.

SECTION 6 SAVINGS

- A. The purpose of Savings is to minimize the expenditure of funds for the construction of the Project on items that exceed the minimum criteria required without a corresponding benefit to the District. The District also wishes to eliminate any excess quality levels or performance criteria provided in the construction documents so long as such elimination does not alter the design, aesthetics, safety standards or configuration or space, and does not increase future maintenance and operation costs. The District and the Contractor shall work cooperatively with each other, in good faith, to identify appropriate opportunities to reduce the Project costs and promote Savings.
- B. If Contractor realizes a Savings on any aspect of the Project such Savings shall be divided in the following proportion: Fifty Percent (50%) of any Savings shall be added directly to the District Contingency and Fifty Percent (50%) of any Savings shall be added directly to the Contractor Contingency. Once added to the District Contingency or Contractor Contingency, such Savings may be expended in accordance with the limitations of the respective Contingency. Contractor shall document all Savings on an ongoing Project budget tracking summary and presented to the District at regularly scheduled construction meetings with District.

SECTION 7 SELECTION OF SUBCONTRACTORS

In the interest of minimizing the expenditure of funds for the construction of the Project, the Contractor agrees to select appropriately State of California licensed subcontractors for each trade component of the Project in a manner that fosters competition. Contractor agrees that it will either solicit bids from subcontractors pursuant to the competitive bid procedures set forth in the Public Contract Code, including the specific provisions of Public Contract Code section 20110 *et seq.*, or that it will utilize an informal bidding process established by the Contractor which also incorporates competitive bid procedures. Regardless of the method Contractor employs, the Contractor make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project in accordance with the provisions of Section 7(A)(1) below. The District reserves the right to oversee the bidding process. Contractor shall inform all bidders that the District will not be a party to any contracts for construction services executed by the Contractor and selected bidders. Contractor shall submit a listing of proposed subcontractors to the District for the District's review. In no case will the Contractor award any subcontracts until the District has concurred to the scope and price of the subcontracted services. In addition, Contractor shall provide the District with full documentation regarding the bids or competitive quotes received by Contractor. In no event shall such documentation be redacted or obliterated. In the event the Contractor does not comply with this provision, the District may terminate this Construction Services Agreement in accordance with the provisions of Section 11 below.

- (1) Compliance with Disabled Veteran Business Enterprise (DVBE) contracting goals is required under this Construction Services Agreement. In accordance with Education Code section 17076.11 the District has a DVBE participation goal of 3% per year of the overall dollar amount of state funds allocated to the District pursuant to the Leroy F. Greene School Facilities Act of 1998, and expended each year by the District. The District is seeking DVBE participation under this Construction Services Agreement.

The Contractor must make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project. Information regarding certified DVBE firms can be obtained from the Office of Small Business Certification and Resources (OSBCR) at (916) 323-5478 or (916) 322-5060 as well as the OSBCR website at www.dgs.ca.gov/osbcr. Verification of DVBE status must be obtained from the OSBCR by receiving an approved certification letter and reference number from that office. The Contractor is encouraged to retain documentation of its good faith efforts, in the event such documentation is requested by the District. Good faith efforts are

demonstrated by evidence of the following: a) Contact was made with the District regarding the identification of DVBEs; b) Contact was made with other state agencies and with local DVBE organizations to identify DVBEs; c) Advertising was published in trade papers and papers focusing on DVBEs; d) Invitations to bid were submitted to potential DVBE contractors; and e) Available DVBEs were considered.

SECTION 8 CONSTRUCTION SCOPE OF WORK

- A. CPM Master Schedule. Prior to commencing construction, Contractor shall submit to District a reasonably detailed CPM (Critical Path Method) Master Schedule for the construction, as set forth in Section 10(E) and Exhibit A Schedule Specifications.
- B. Pre-Construction Orientation/Construction Meetings. The Contractor, in conjunction with the Architect, shall conduct pre construction orientation conferences for the benefit of Subcontractors to orient the Subcontractors to the various reporting procedures and site rules prior to the commencement of actual construction. The Contractor shall also conduct construction and progress meetings with District Representatives and other interested parties, as requested by the District, to discuss such matters as procedures, progress problems and scheduling. The Contractor shall prepare and promptly distribute official minutes of such meetings to all parties in attendance including Architect, District and Inspector.
- C. Budget/Cash Flow Reports. The Contractor shall incorporate approved changes as they occur, and develop cash flow reports and forecasts for submittal to the District on a monthly basis. The Contractor shall provide regular monitoring of the approved estimates of Construction Costs, showing actual costs for activities in progress, and estimates for uncompleted tasks. The Contractor shall identify variances between actual and budgeted or estimated costs, and advise the District and the Architect whenever Project costs exceed budgets or estimates. The Contractor shall maintain cost accounting records on authorized additional services or work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.
- D. Progress Reports. The Contractor shall record the progress of the Project, and shall submit monthly written progress reports to the District and the Architect including information on the entire Project, showing percentages of completion and the number and amounts of proposed Extra Work/Modifications and their effect on the Construction Costs as of the date of the report. The Contractor shall also keep a daily log containing a record of weather, Contractors, work on the site, number of workers, work accomplished, problems encountered, and other similar relevant data as the District may require. The Contractor shall make the log available to the District and the Architect. The District shall be promptly informed of all anticipated delays. In the event that the Contractor determines that a schedule modification is necessary, the Contractor shall promptly submit a revised Schedule for approval by the District.
- E. Shop Drawings. Contractor shall check and verify all field measurements and shall submit with such promptness as to cause no delay in the Work or in that of any other contractor, subcontractor, Architect, other independent contractor or worker on the Project, three (3) copies of all shop or setting drawings, schedules, and materials list, and all other submittals in accordance with other provisions of the contract required for the work of various trades. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to Architect. Each signed submittal shall affirm that the submittal meets all the requirements of the Contract Documents except as specifically and clearly noted and listed on the cover sheet of the submittal.
 - (1) Contractor shall advise District immediately, if Architect has not checked and approved with reasonable promptness, such schedules and drawings for conformance with design concept of project and compliance with information given in contract documents. Contractor shall make any corrections required by Architect, file with him three (3) corrected copies, and furnish such other copies as may be needed for construction.

Architect's approval of such drawings or schedules also shall not relieve Contractor from responsibility for deviations from drawings or specifications unless Contractor has in writing called Architect's attention to such deviations at time of submission and has secured his written approval. Architect's approval of such drawings and schedules also shall not relieve contractor from responsibility for errors in shop drawings or schedules. For purposes of this section "reasonable promptness" shall mean such reasonable promptness as to cause no delay in the work or in the activities of the District, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review.

- F. **Submittals.** Contractor shall furnish for approval, within fourteen (14) days following the Project commencement date in the Notice to Proceed, or within any other time frame agreed to by the parties, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in specifications. Such log shall indicate whether samples will be provided as specified and in accordance with other provisions of this Construction Services Agreement. Contractor will provide samples and submittals, together with catalogs and supporting data required by Architect within a reasonable time period so as not to cause delays on the Project. This provision shall not authorize any extension of time for performance of this Construction Services Agreement. Architect will check and approve such samples, only for conformance with design concept of work and for compliance with information given in contract documents. Work shall be in accordance with approved samples. Architect's action will be taken within fourteen (14) calendar days after receiving such samples and submittals. If in the Architect's professional judgment fourteen days is an insufficient amount of time to permit adequate review, Architect shall, within the initial fourteen (14) day period, notify the Contractor, with a copy to the Inspector and the District, of the amount of time that will be required to respond. If the Architect's response results in a change in the Project, then such change shall be effected by a written change order.
- G. **Scheduling.** Contractor shall complete the construction pursuant to the CPM Construction Documents, subject to DSA approval and reduction in scope, performing all work set forth in the Scope of Work (Exhibit "A" to this Construction Services Agreement) and shall make reasonable efforts in scheduling to prevent disruption to classes.
- H. **District Permit and Other Obligations.** It is expressly understood that the District shall pay the DSA for the DSA inspector, soils testing, DSA fees, special testing, etc. If additional review or permits become necessary for reasons not due to Contractor's fault or because of DSA requirements or regulations implemented after the date the Final GMP is established and not reasonably anticipated at the time the Final GMP is established, Contractor may seek additional compensation for the cost of that review as an additional cost. In the alternative, District may pay such costs directly to DSA.
- I. **Contractor Permit Obligations.** District shall pay for all remaining general building permits and ancillary permits and licenses not paid by District prior to the commencement of this Construction Services Agreement. District shall also be responsible for arranging and overseeing, all necessary inspections and tests, including inspections by the DSA, permits and occupancy permits, and ensure compliance with any Federal and State laws. All inspection fees and other municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by District. Contractor shall be responsible for arranging the payment of such fees, but inspection fees and other municipal fees relating to permanent utilities shall be paid by District. Contractor may either request reimbursement from District for such fees, or obtain the funds from District prior to paying such fees.
- J. **Protection.** The Contractor shall establish procedures for the protection of all existing structures, equipment, utilities, and other existing improvements, both on site and off site.
- K. **Nuisance Abatement.** The Contractor shall develop a mutually agreed upon program with the District to abate and minimize noise, dust, and disruption to normal activities at the existing

facilities on the Site, including procedures to control on site noise, dust, and pollution during construction.

- L. **Site Mitigation and Remediation.** The District shall perform any required Site mitigation or remediation at its sole cost, unless such Site mitigation or remediation is necessitated by any of the conditions described in Section 31 hereof, in which event the provisions of that section shall govern. The District shall be responsible for any asbestos and lead abatement and/or remediation work.
- M. **Utilities.** The Contractor shall perform and pay for all temporary utility hook ups and connections; the District shall pay for use of utilities during construction, as well as any fees owed to utility suppliers for connection to existing mainline facilities.
- N. **Sanitary Facilities.** The Contractor shall provide a sanitary temporary toilet building as directed by the inspector for the use of all workers. The building shall be maintained in a sanitary condition at all times and shall be left at the site until the inspector directs removal. Use of toilet facilities in the work under construction shall not be permitted except by approval of the Inspector.
- O. **Layout and Field Engineering.** All field engineering required for laying out this work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense. Such work shall be done by a qualified civil engineer or land surveyor licensed in California and approved by the Architect. Any required "as built" drawings of site development shall be prepared by a qualified civil engineer or land surveyor licensed in California and approved by the Architect.
- P. **Cutting and Patching.** Contractor shall do all cutting, fitting, or patching of work as required to make its several parts come together properly and fit it to receive or be received by work of other contractors showing upon, or reasonably implied by, the drawings and specifications for the completed structure. Contractor shall make good after them as Architect may direct. All cost caused by defective or ill timed work shall be borne by party responsible therefore. Contractor shall not endanger any work by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor save with consent or at the direction of Architect.
- Q. **Requests for Information.** Architect shall respond to Requests for Information ("RFI") within five (5) days of receipt of RFI. If in the Architect's professional judgment five (5) days is an insufficient amount of time to permit adequate review, Architect shall, within the initial five (5) day period, notify the Contractor, with a copy to the Inspector and the District, of the amount of time that will be required to respond.
- R. **Close Out Submittals.** The Contractor shall be responsible for the timely delivery of the technical manuals, warranties and guarantees as required in the technical specifications at the completion of the Project.

SECTION 9 EXTRA WORK/MODIFICATIONS

- A. In addition to those errors and omissions of the Plans and Specifications, if any, which are to be addressed by the Errors and Omissions Allowance, the District may prescribe extra work or a modification or reduction of requirements or of methods of performing the Construction which differ from the work or requirements set forth in the Construction Documents ("Extra Work/Modifications"); and for such purposes, the District may at any time during the life of this Construction Services Agreement by written order, make such changes as it shall find necessary in the design, line, grade, form, location, dimensions, plan, or material of any part of the work or equipment specified herein or in the Construction Documents, or in the quantity or character of the work or equipment to be furnished. In the event conditions develop which make strict compliance with the specifications impractical, Contractor shall notify District of the need for such Extra Work/Modification by placing the matter on the agenda of regularly scheduled construction meetings with District for discussion as soon as practicable after the need for such Extra Work/Modification is determined. Additionally, Contractor shall submit to the District for its

consideration and approval or disapproval, a written request for Extra Work/Modifications before such work is performed. If District approves such request in writing, the costs of the Extra Work/Modifications, as established pursuant to this Section 9, shall be added to the GMP from the District's Contingency, or otherwise deducted from the GMP, as applicable.

B. Value of any such Extra Work/Modification, change, or deduction shall be determined at the discretion of the District, in consultation with the Architect, in one or more of the following ways:

- a. By acceptable lump sum proposal from Contractor with itemization as required by the District and/or the Architect.
- b. By unit prices contained in Contractor's cost estimates and incorporated in the Contract Documents or fixed by subsequent agreement between the District and Contractor.
- c. By the cost of material and labor and a percentage for the Contractor's construction management fee. The following form shall be followed as applicable for additions and deductions to the Construction Services Agreement:

	EXTRA/ (CREDIT)
(a) Material (attach itemized quantity and unit cost plus sales tax)	_____
(b) Subcontractor's labor and profit/overhead (profit/overhead not to exceed Ten percent (10%) (attach itemized hours and base rates from identified prevailing wage rate schedules)	_____
(c) Commercial General Liability and Property Damage Insurance, Workers' Compensation Insurance, Social Security and Unemployment taxes at actual and verified cost	_____
(d) Subtotal	_____
(e) Contractor's profit/overhead not to exceed five percent 5% of Item (d), if applicable, provided, however, that Contractor's profit/overhead may include an amount not to exceed ten percent (10%) where Contractor self performs work and there is no subcontractor labor and profit/overhead as set forth in Item (b)	_____
(f) Subtotal	_____
(g) Bond Premium, not to exceed 1% of Item (f)	_____
(h) Total	_____

C. Regardless of whether the cost of the Extra Work/Modification is determined pursuant to 1, 2, or 3, above, in addition to the cost of the material and labor for deleted items, Contractor shall credit back an appropriate and reasonable amount for the bonding mark up for deleted items at the time of the request for the Extra Work/Modification.

D. Should Contractor claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation (i) obligates the District to pay additional compensation to the Contractor; or (ii) obligates the District to grant an extension of time for the completion of the Construction Services Agreement; or (iii) constitutes a waiver of any provision in this Construction Services Agreement, CONTRACTOR SHALL NOTIFY THE DISTRICT, IN

WRITING, OF SUCH CLAIM AS SOON AS POSSIBLE, BUT IN NO EVENT WITHIN MORE THAN TEN (10) BUSINESS DAYS FROM THE DATE CONTRACTOR HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE CLAIM. CONTRACTOR SHALL ALSO PROVIDE DISTRICT WITH SUFFICIENT WRITTEN DOCUMENTATION SUPPORTING THE FACTUAL BASIS OF THE CLAIM including in the documentation items (B)(3)a-h described in this Section. Contractor shall be required to certify under penalty of perjury the validity and accuracy of any claims submitted. The Contractor's failure to notify the District within such ten (10) business day period shall be deemed a waiver and relinquishment of the claim against the District. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in this Section.

- E. All costs associated with the Extra Work/Modification may be in terms of time, money or both.
- F. Expenses of reconstruction and/or costs to replace and/or repair damaged materials and supplies, provided that Contractor is not fully compensated for such expenses and/or costs by insurance or otherwise, may be added to the GMP, if said expenses are the result of the established negligent acts or omissions or willful misconduct of the District, or its subcontractors, principals, agents, servants, employees, or its design professionals.
- G. The term "profit/overhead" for any subcontractors shall be considered to include insurance other than mentioned in Section 9(c) above, field and office supervisors and assistants, watchmen, use of small tools, consumables and general field and home office expenses, and no separate allowance will be made therefor.

SECTION 10 TIME OF COMPLETION

- A. ONCE THE DISTRICT HAS ISSUED A NOTICE TO PROCEED, CONTRACTOR SHALL PROCEED WITH THE CONSTRUCTION OF THE PROJECT WITH REASONABLE DILIGENCE. CONTRACTOR AGREES THAT THE PROJECT WILL BE SUBSTANTIALLY COMPLETED (By April 2, 2012) WITHIN Five Hundred Thirty Four (534) CALENDAR DAYS FROM THE PROJECT COMMENCEMENT DATE IN THE NOTICE TO PROCEED (October 15, 2010) PURSUANT TO THE PROVISIONS OF SECTION 5, ABOVE, WITH AN INTENDED OCCUPANCY DATE OF May 1, 2012 (563) CALENDAR DAYS AFTER THE PROJECT COMMENCEMENT DATE IN THE NOTICE TO PROCEED BY DISTRICT, AS SAID TIME MAY BE EXTENDED FOR SUCH PERIODS OF TIME AS CONTRACTOR IS PREVENTED FROM PROCEEDING WITH OR COMPLETING THE PROJECT FOR ANY CAUSE DESCRIBED IN THIS SECTION 10, OR AS OTHERWISE AGREED TO IN WRITING BY THE DISTRICT AND CONTRACTOR. IF THE WORK IS NOT COMPLETED IN ACCORDANCE WITH THE FOREGOING, IT IS UNDERSTOOD THAT THE DISTRICT WILL SUFFER DAMAGE. CONTRACTOR SHALL NOT BE ENTITLED TO A BONUS OR INCENTIVE PAYMENT FOR COMPLETING THE PROJECT WITHIN LESS THAN Five Hundred Thirty Four (534) CALENDAR DAYS FROM THE PROJECT COMMENCEMENT DATE IN THE NOTICE TO PROCEED. IT BEING IMPRACTICAL AND INFEASIBLE TO DETERMINE THE AMOUNT OF ACTUAL DAMAGE, IT IS AGREED THAT CONTRACTOR SHALL PAY TO DISTRICT AS FIXED AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, THE SUM OF ONE THOUSAND DOLLARS (\$1,000.00) PER DAY FOR EACH CALENDAR DAY OF DELAY UNTIL WORK IS SUBSTANTIALLY COMPLETED AND ACCEPTED. CONTRACTOR AND HIS SURETY SHALL BE LIABLE FOR THE AMOUNT THEREOF. ANY MONEY DUE OR TO BECOME DUE THE CONTRACTOR MAY BE RETAINED BY THE DISTRICT TO COVER SAID LIQUIDATED DAMAGES. SHOULD SUCH MONEY NOT BE SUFFICIENT TO COVER SAID LIQUIDATED DAMAGES, THE DISTRICT SHALL HAVE THE RIGHT TO RECOVER THE BALANCE FROM THE CONTRACTOR OR ITS SURETIES, WHO WILL PAY SAID BALANCE FORTHWITH.

This Section 10 and the liquidated damages referred to directly above is expressly understood and agreed to by the Parties hereto:

DJM Contractor's Initials

_____ District's Initials

- B. In the event that the performance and/or completion of the Project is delayed at any time by any act or omission of District or of any employee, agent or, tenant of District or its design professionals, by any separate Contractor employed by District, by changes or alterations in the Project not caused by any fault or omission by Contractor, by strikes, by lockouts, by fire, by embargoes, by windstorm, by flood, by earthquake, by acts of war or God, by changes in public laws, regulations or ordinances enacted after the date of execution of this Construction Services Agreement by acts of public officials not caused by any fault or omission of Contractor, by an inability to obtain materials or equipment not caused by any act or omission of Contractor, or by any other cause beyond the reasonable control of Contractor, the aforesaid date for substantial completion of the Project shall be extended for a period commensurate with the delay. Contractor shall not be charged liquidated damages because of such delays in completion of work or delays otherwise due to unforeseeable causes beyond the control and without the fault or negligence of Contractor.
- C. The term "substantially completed" or "substantial completion" as used herein shall mean complete except for minor and trivial corrective items.
- D. The term "Fully Completed and Accepted," as used herein, shall mean that all remaining work has been completed in accordance with the Construction Documents and that successful testing, startup and satisfactory operation of the Project as a total unit has been accomplished in substantial conformance with the Construction Documents.
- E. Within thirty (30) business days after the Project commencement date in the District's Notice to Proceed, Contractor shall furnish District with a reasonably detailed CPM (Critical Path) Schedule, in accordance with EXHIBIT "A" which supersedes "Part 1, Section 1.04 Schedule Submittal Preparation Guidelines", setting forth the expected dates for commencement and completion of each of the various stages of construction to be performed by Contractor pursuant to this Construction Services Agreement (the "Time Schedule"). The Contractor shall submit the master schedule to the District for acceptance and update the master schedule as appropriate on at least a monthly basis. The Contractor shall incorporate the activities of Contractors on the Project and delivery of products requiring long lead time procurement. The Contractor shall also include the District's occupancy requirements showing portions of the Projects having occupancy priority. The Contractor shall be responsible for providing the District with a Schedule of Values within thirty (30) working days of the Project commencement date in the District's Notice to Proceed, which will be updated as needed. It is specifically understood that District will utilize said Time Schedule as it is revised from time to time to determine completion dates of various aspects of the Project. Sublease Prepayments under the Sublease shall be conditioned upon completion of various aspects of the Project as determined by District's Inspector pursuant to the Time Schedule and the Schedule of Values.
- F. The Contractor shall not be assessed liquidated damages for this Construction Services Agreement and shall not be subject to any damages for delay in completion of the Project, when such delay was caused by the failure of the District or the owner of the utility to provide for removal or relocation of the existing main or trunkline utility facilities; however, when the Contractor is aware that removal or relocation of an existing utility has not been provided for, Contractor shall promptly notify the District and the utility in writing, so that provision for such removal or relocation may be made to avoid and minimize any delay which might be caused by the failure to remove or relocate the main or trunkline utility facilities, or to provide for its removal or

relocation. In accordance with Section 4215 of the Government Code, if the Contractor while performing the work on the project discovers any existing main or trunkline utility facilities not identified by the public agency (the District) in the contract plans or specifications, Contractor shall immediately notify the public agency (the District) and utility in writing. The public utility, where they are the owner, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Such compensation shall be in accordance with the extra work provisions set out in Section 9 hereof.

SECTION 11 TERMINATION OF AGREEMENT

A. Termination for Breach.

- (1) If the Contractor refuses or fails to prosecute the construction of the Project or any separable part thereof with such diligence as will insure its completion within the time specified by this Construction Services Agreement or any extension thereof, or fails to complete the Project within such time, or if the Contractor should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its subcontractors should materially violate any of the provisions of this Construction Services Agreement, the District may serve written notice upon the Contractor and its Surety of the District's intention to terminate this Construction Services Agreement. This notice of intent to terminate shall contain the reasons for such intention to terminate this Construction Services Agreement and a statement to that effect that the Contractor's right to perform work on the Project shall cease and terminate upon the expiration of ten (10) days unless such violations have ceased and arrangements satisfactory to the District have been made for correction of said violations.
- (2) In the event that the District serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform this Construction Services Agreement. If the Surety does not: (1) give the District written notice of Surety's intention to take over and commence performance of this Construction Services Agreement within (15) days of the District's service of said notice of intent to terminate upon Surety; and (2) actually commence performance of this Construction Services Agreement within thirty (30) days of the District's service of said notice upon Surety; then the District may take over the Project and prosecute the same to completion by separate contract or by any other method it may deem advisable for the account and at the expense of the Contractor.
- (3) In the event that the District elects to obtain an alternative performance of the Construction Services Agreement as specified above: (1) the District may, without liability for so doing, take possession of and utilize in completion of the Project such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion; and (2) Surety shall be liable to the District for any cost or other damage to the District necessitated by the District securing an alternate performance pursuant to this Section 11.

B. Termination for Convenience.

- (1) The District may terminate performance of the Project called for by the Contract Documents in whole or, from time to time, in part, if the District determines that a termination is in the District's interest.

- (2) The Contractor shall terminate all or any part of the Project upon delivery to the Contractor of a "Notice of Termination" specifying that the termination is for the convenience of the District, the extent of termination, and the effective date of such termination.
- (3) After receipt of Notice of Termination, and except as directed by the District's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
 - a. Stop Work as specified in the Notice of Termination.
 - b. Complete any work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
 - c. Leave the Property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
 - d. Terminate all subcontracts to the extent that they relate to the portions of the work terminated.
 - e. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Construction Services Agreement.
 - f. Submit to the District's Representative, within ten (10) days from the Project commencement date found in the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Project commencement date found in the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the District's exercise of its right to terminate this Construction Services Agreement pursuant to this clause, which costs the Contractor is authorized under the Construction Services Agreement to incur, shall: (i) be submitted to and received by the District no later than thirty (30) days after the Project commencement date found in the Notice of Termination; (ii) describe the costs incurred with particularity; and (iii) be conspicuously identified as "Termination Costs occasioned by the District's Termination for Convenience."
- (4) Termination of the Construction Services Agreement shall not relieve the Surety of its obligation for any just claims arising out of or relating to the work performed on the Project.
- (5) In the event that the District exercises its right to terminate this Construction Services Agreement pursuant to this clause, the District shall pay the Contractor, upon the Contractor's submission of the documentation required by this provision, and other applicable provisions of the Construction Services Agreement the following amounts:
 - a. All actual costs incurred according to the provisions of this Construction Services Agreement including but not limited to insurance costs incurred in connection with the Project.

- b. A reasonable allowance for profit on the cost of the work on the Project performed, provided Contractor establishes to the satisfaction of the District, that it is reasonably probable that the Contractor would have made a profit had the Construction Services Agreement been completed and provided further, that the profit allowed shall in no event exceed seven percent (7%) of costs. In no event shall the total amount exceed GMP.
 - c. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Construction Services Agreement under this Section 11.
- C. Termination of Agreement by Contractor.
- (1) The Contractor may terminate the Construction Services Agreement upon ten (10) days written notice to the District, whenever: (1) the entire Project has been suspended for ninety (90) consecutive days through no fault or negligence of the Contractor and notice to resume the Construction Services Agreement or to terminate the Construction Services Agreement has not been received from the District within this time period; or (2) the District should fail to pay the Contractor any substantial sums due it (unless such sums are contested by the District) in accordance with the terms of the Construction Services Agreement and within the time limits prescribed; or (3) the District shall elect not to appropriate funds and/or elect not to make two (2) successive Sublease Prepayments following the receipt by District or a request from the Contractor in its capacity as Lessor for each such Sublease Prepayment submitted pursuant to Section 26(A) of the Sublease. In the event of such termination, the Contractor shall have no claims against the District except for work performed on the Project as of the date of termination.

SECTION 12 PERSONNEL ASSIGNMENT

- A. Contractor shall assign Brian Ashton as Superintendent and Rudy Delgadillo as Sr. Project Manager for the Project. So long as the Field Project Manager/Superintendent and/or the Office Project Manager remains in the employ of the Contractor, such persons shall not be changed or substituted from the Project, or cease to be fully committed to the Project except as provided in this Section. In the event Contractor deems it necessary, Contractor shall replace Field Project Manager/Superintendent and/or Office Project Manager for the Project with a replacement with like qualifications and experience, subject to the prior written consent of the District, which consent may be withheld, unless Contractor can show exigent circumstances why Field Project Manager/Superintendent and/or Office Project Manager must be replaced. Any violation of the terms and provisions of this Section 12(A) shall entitle the District to terminate this Construction Services Agreement for breach, pursuant to the provisions of Section 11.
- B. Notwithstanding the foregoing provisions of Section 12(A), above, if any Field Project Manager/Superintendent and/or Office Project Manager proves not to be satisfactory to the District, upon written notice from the District to the Contractor such person shall be promptly replaced by a person who is acceptable to the District in accordance with the following procedures:
 - (1) Within five (5) business days after receipt of a notice from the District requesting the replacement of any Field Project Manager/Superintendent and/or Office Project Manager or promptly following the discovery by the Contractor that any Field Project Manager/Superintendent and/or Office Project Manager is leaving the employ of the Contractor, as the case may be, the Contractor shall provide the District with the name of an acceptable replacement/substitution (together with such person's resume and other information regarding such person's experience and qualifications). The replacement/substitution shall commence work on the Project no later than five (5) business days following the District's approval of such replacement, which approval shall

not be unreasonably withheld. In the event that the District and Contractor cannot agree as to the substitution of replacement Field Project Manager/Superintendent and/or Office Project Manager, the District shall be entitled to terminate this Construction Services Agreement for breach, pursuant to the provisions of Section 11.

SECTION 13 MAINTENANCE OF RECORDS; AUDIT/OWNERSHIP OF DOCUMENTS.

- A. The Contractor, and any subcontractors, shall keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the course of its activities and operations related to the Project. These documents may include sales slips, invoices, payrolls, personnel records, requests for subcontractor payment, and other data relating to all matters covered by the Contract Documents. At all times during the construction of the Project, and for four (4) years following the termination of the term of the last Document, the Contractor, and any subcontractors, shall retain such data and records. During construction of the Project, the Contractor shall make available all requested data and records at reasonable locations within the County of San Bernardino, at any time during normal business hours, and as often as the District deems necessary. If records are not made available within the County of San Bernardino during the construction of the Project, the Contractor shall pay the District's travel costs to the location where the records are maintained. Upon completion of the construction of the Project, Contractor shall provide District with one (1) complete copy of all books, records and accounts of all financial transactions in the course of its activities and operations related to the Project, including but not limited to sales slips, invoices, payrolls, personnel records, requests for subcontractor payment and other data relating to all matters covered by the Contract Documents. Failure to make requested records available for audit by the date requested will result in immediate termination of this Construction Services Agreement.
- B. At its own cost, the District shall have the right to review and audit, upon reasonable notice, the books and records of the Contractor concerning any monies associated with the Project. This right does not extend to books and records that do not, in any way, relate to or concern the accounting of monies associated with the Project. Any such audit shall be performed by an independent auditor, having no direct or indirect relationship with the functions or activities being audited or with the business conducted by the Contractor or District. In the event the independent auditor determines that savings realized during the prosecution and progress of the Project were not allocated as provided for in Section 6 of this Construction Services Agreement, the District shall be entitled deduct such the amount of such savings from the next Sublease Payment due or Sublease Prepayments, as applicable, under the provisions of the Sublease between District and Contractor. If the Contractor disputes the findings of the independent auditor, such dispute shall be handled in accordance with the provisions of Section 34 of this Construction Services Agreement.
- C. Ownership of Drawings. Notwithstanding any provision of this Agreement, all drawings, specifications, and copies thereof furnished by District are its property. They are not to be used on other work and with exception of signed contract sets, are to be returned to District on request at completion of work.

SECTION 14 PREVAILING RATES OF WAGES

- A. Compliance Monitoring Unit. This Project is subject to labor compliance monitoring and enforcement by the Compliance Monitoring Unit within the Division of Labor Standards Enforcement pursuant to Title 8, California Code of Regulations, Section 16460 *et seq.* The Compliance Monitoring Unit may conduct various compliance monitoring and enforcement activities including, but not limited to, confirming the accuracy of payroll records, conducting worker interviews, conducting audits, requiring submission of itemized statements prepared in accordance with Labor Code section 226, and conducting random in-person inspections of the Project site ("On-Site Visits"). On-Site Visits may include inspections of records, inspections of the work site and observation of work activities, interviews of workers and others involved with

the Project, and any other activities deemed necessary by the Compliance Monitoring Unit to ensure compliance with prevailing wage requirements. The Compliance Monitoring Unit shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner.

Any lawful activities conducted or any requests made by the Compliance Monitoring Unit shall not be the basis for any delays, claims, costs, damages or liability of any kind against the District by the Contractor. Contractor and all Subcontractors shall cooperate and comply with any lawful requests by the Compliance Monitoring Unit. The failure of the Compliance Monitoring Unit, the Division of Labor Standards Enforcement, or any other part of the Department of Industrial Relations to comply with any requirement imposed by the California Code of Regulations, Title 8, Chapter 8, Subchapter 4.5 shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Division 2, Part 7, Chapter 1 of the Labor Code.

Prior to commencing any work on the Project, the Contractor shall post the notice/poster required under Title 8, California Code of Regulations, Section 16451(d) in both English and Spanish at a conspicuous, weatherproof area at the Project site. The notice/poster may be obtained through the Department of Industrial Relations and shall include the telephone number of the local Division of Labor Standards Enforcement office closest to the Project site.

- B. Wage Rates. Pursuant to the provisions of Article 2 (commencing at Section 1720), Division 2, Part 7, Chapter 1 of the Labor Code, the District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public works project is to be performed for each craft, classification, or type of worker needed for this Project from the Director of the Department of Industrial Relations ("Director"). These rates are on file at the administrative office of the District and are also available from the Director of the Department of Industrial Relations. Copies will be made available to any interested party on request. The Contractor shall post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site. Any worker employed to perform work on the Project, but such work is not covered by any classification listed in the published general prevailing wage rate determinations or per diem wages determined by the Director of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to the employment of such person in such classification.
- C. Holiday and Overtime Pay. Holiday and overtime work, when permitted by law, shall be paid for at the rate set forth in the prevailing wage rate determinations issued by the Director of the Department of Industrial Relations or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in the contract documents or authorized by law.
- D. Wage Rates Not Affected by Subcontracts. The Contractor shall pay and shall cause to be paid each worker engaged in the execution of the work on the Project not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such workers.
- E. Per Diem Wages. The Contractor shall pay and shall cause to be paid to each worker needed to execute the work on the Project per diem wages including, but not limited to, employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided for in Labor Code section 1773.1.
- F. Forfeiture and Payments. Pursuant to Labor Code section 1775, the Contractor shall forfeit to the District, not more than Fifty Dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages rates as determined by the Director of the Department of Industrial Relations, for the work or craft in which the worker is employed for any Work done

under the Agreement by the Contractor or by any Subcontractor under it. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of: (1) whether the Contractor or Subcontractor's failure to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily correct upon being brought to the attention of the Contractor or Subcontractor; and (2) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations.

- G. As a further material part of this Construction Services Agreement, Contractor agrees to hold harmless and indemnify the District, its Board and each member of the Board, its officers, employees and agents from any and all claims, liability, loss, costs, damages, expenses, fines and penalties, of whatever kind or nature, including all costs of defense and attorneys' fees, arising from any alleged failure of Contractor or its subcontractors to comply with the prevailing wage laws of the State of California. If the District or any of the indemnified parties are named as a party in any dispute arising from the failure of Contractor or its subcontractors to pay prevailing wages, Contractor agrees that the District and the other indemnified parties may appoint their own independent counsel, and Contractor agrees to pay all attorneys' fees and defense costs of the District and the other indemnified parties as billed, in addition to all other damages, fines, penalties and losses incurred by the District and the other indemnified parties as a result of the action.

When determining GMP, Contractor shall include to the extent possible anticipated general prevailing wage rates for the time when work on the Project will actually be performed.

SECTION 15 DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

The Contractor, or any subcontractor working under the Contractor may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code. Any contract on a public works project entered into between the Contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by the Contractor on the project shall be returned to the District. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

SECTION 16 EMPLOYMENT OF APPRENTICES

- A. Apprentice Wages and Definitions. All apprentices employed by the Contractor to perform services under the Contract Documents shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which he or she is employed, and as determined by the Director of the Department of Industrial Relations, and shall be employed only at the craft or trade to which he or she is registered. Only apprentices, as defined in Section 3077 of the Labor Code, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprenticeship agreements under Chapter 4 (commencing with Section 3070) of Division 3, are eligible to be employed under these Contract Documents. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training, or in accordance with the rules and regulations of the California Apprenticeship Council.
- B. Employment of Apprentices. Contractor agrees to comply with the requirements of Labor Code section 1777.5. The Contractor awarded the Project, or any Subcontractor under him or her, when performing any of the work under the Contract Documents or subcontract, employs workers in any apprenticeable craft or trade, the Contractor and Subcontractor shall employ apprentices in the ratio set forth in Labor Code section 1777.5. The Contractor or any Subcontractor must apply to any apprenticeship program in the craft or trade that can provide apprentices to the Project Site for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of

the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or Subcontractor upon the Contractor's or Subcontractor's request. "Apprenticeable craft or trade" as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The ratio of work performed by apprentices to journeyman employed in a particular craft or trade on the Project shall be in accordance with Labor Code section 1777.5.

- C. Submission of Contract Information. Prior to commencing work on the Project, the Contractor and Subcontractors shall submit contract award information to the applicable apprenticeship program(s) that can supply apprentices to the Project and make the request for the dispatch of apprentices in accordance with the Labor Code. The information submitted shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the District if requested. Within 60 days after concluding work on the Project, the Contractor and Subcontractors shall submit to the District, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the Project.
- D. Apprentice Fund. The Contractor or any Subcontractor under him or her, who, in performing any of the Work under the Contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the Director determines is the prevailing amount of apprenticeship training contributions in the area of the Project. The Contractor and Subcontractors may take as a credit for payments to the California Apprenticeship Council any amounts paid by the Contractor or Subcontractor to an approved apprenticeship program that can supply apprentices to the Project. The Contractor and Subcontractors may add the amount of the contributions in computing his or her proposal or bid for the Contract Documents.
- E. Contractor Compliance. The responsibility of compliance with Article 13 and Section 1777.5 of the Labor Code for all apprenticeable occupations is with the Contractor. Any Contractor or Subcontractor that knowingly violates the provisions of this Article or Labor Code section 1777.5 shall be subject to the penalties set forth in Labor Code section 1777.7.

SECTION 17 HOURS OF WORK

- A. Eight (8) hours of work shall constitute a legal day's work. The Contractor and each subcontractor shall forfeit, as penalty to the District, twenty five dollars (\$25) for each worker employed in the execution of work on the Project by the Contractor or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any calendar week in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815, thereof, inclusive, except that work performed by employees of the Contractor and his subcontractors in excess of eight hours per day at not less than one and one half times the basic rate of pay, as provided in Labor Code section 1815.
- B. Generally, construction work on the Project shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m., however nothing herein shall prevent Contractor from working weekends and after school hours in order to complete the Project so long as not otherwise prohibited by law or local ordinances or regulations.
- C. Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed and included within the GMP, unless otherwise agreed to in writing before the work in question is commenced pursuant to Section 9, Extra Work/Modifications.

SECTION 18 PAYROLL RECORDS

A. Payroll Records.

(1) Pursuant to Section 1776 of the Labor Code, each Contractor and Subcontractor shall keep an accurate payroll records showing the name, address, social security number, work classification and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the Project.

(2) All payroll records shall be certified, in electronic format, and submitted directly to the Compliance Monitoring Unit in accordance with Title 8, California Code of Regulations, section 16460 *et seq.* with each application for payment, but shall not be submitted less than once per month, or within 10 calendar days of any separate request by the Compliance Monitoring Unit. All payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

1. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
2. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of District, the Division of Labor Standards Enforcement, the Compliance Monitoring Unit or the Division of Apprenticeship Standards of the Department of Industrial Relations.
3. A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph (2) above, the requesting party shall, prior to being provided the records, reimburse the costs, according to law for the preparation by the Contractor, Subcontractor(s), and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Contractor.

(3) All payroll records shall be furnished in a format prescribed by Title 8, California Code of Regulations, section 16401.

(4) The Contractor or Subcontractor(s) shall file a certified copy of all payroll records with the entity that requested such records within 10 calendar days after receipt of a written request.

(5) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number.

(6) The Contractor shall inform the District of the location of all payroll records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(7) The Contractor or Subcontractor(s) shall have 10 calendar days in which to comply subsequent to receipt of a written notice requesting payroll records. In the event that the Contractor

or Subcontractor(s) fails to comply within the 10-day period, the Contractor or Subcontractor(s) shall, as a penalty to the District, forfeit Twenty-Five Dollars (\$25.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

(8) Responsibility for compliance with this Article shall rest upon the Contractor.

B. Withholding of Contract Payments & Penalties.

The District may withhold or delay contract payments to the Contractor and/or any Subcontractor if:

(1) The required prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations is not paid to all workers employed on the Project; or

(2) The Contractor or Subcontractor(s) fail to submit all required certified payroll records with each application for payment, but not less than once per month; or

(3) The Contractor or Subcontractor(s) submit incomplete or inadequate payroll records; or

(4) The Contractor or Subcontractor(s) fail to comply with the Labor Code requirements concerning apprentices; or

(5) The Contractor or Subcontractor(s) fail to comply with any applicable state laws governing workers on public works projects.

SECTION 19 BONDING REQUIREMENTS

The Contractor shall provide the following bonds:

- A. A "Payment Bond" (material and labor bond) from a California admitted surety and in the form attached hereto, shall be provided by Contractor for the Project within five (5) working days after the Project commencement date in the Notice to Proceed for the Project. The Payment Bond shall be for One Hundred Percent (100%) of the GMP of the Project, to satisfy claims of materials suppliers and of mechanics and laborers employed on the Project. The Payment Bond shall be maintained by the Contractor in full force and effect for the Project until the Project is fully completed and accepted and until all claims for materials and labor are paid, and shall otherwise comply with California law. The Payment Bond, once obtained, shall be attached to this Construction Services Agreement as Exhibit "D." In the event the GMP is increased in accordance with the provisions set forth in Section 9 above, the Contractor must increase the Payment Bond to equal the revised GMP. The Payment Bond must be executed by an admitted Surety approved to conduct business in the State of California, pursuant to California Code of Civil Procedure Section 995.120. In addition, to the extent required by law, the Payment Bond must be accompanied by a certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner of the State of California and four copies of the insurer's most recent annual statement and quarterly statement filed with the Department of Insurance of the State of California.
- B. A "Faithful Performance Bond" from a California admitted surety and in the form attached hereto shall be provided by Contractor for the Project within five (5) working days after Project commencement date in the Notice to Proceed. The Faithful Performance Bond shall be for One Hundred Percent (100%) of the GMP for the Project to guarantee faithful performance of all work, within the time prescribed, in a manner satisfactory to the District, and that all materials and workmanship shall be free from original or developed defects. The Faithful Performance Bond shall be in the form attached hereto and shall be maintained by the Contractor in full force and

effect until the Project is fully completed and accepted and until all claims for materials and labor are paid, and shall otherwise comply with California law. The Faithful Performance Bond shall name the District as the entity to which the Principal and Surety, as defined in the Faithful Performance Bond, are bound. The Faithful Performance Bond shall be attached to this Construction Services Agreement as Exhibit "E." In the event the GMP is increased in accordance with the provisions set forth in Section 9 above, Contractor must increase the Faithful Performance Bonds to equal the revised GMP. The Performance Bond must be executed by an admitted Surety approved to conduct business in the State of California, pursuant to California Code of Civil Procedure Section 995.120. In addition, to the extent required by law, the Performance Bond must be accompanied by a certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner of the State of California and four copies of the insurer's most recent annual statement and quarterly statement filed with the Department of Insurance of the State of California.

- C. The bonds required by this section shall meet the following criteria:
- (1) Each bond shall be signed by both the Contractor and a notary and the signature of the authorized agent of the surety shall be notarized.
 - (2) Should any bond become insufficient, the Contractor shall renew or amend the bond within ten (10) days after receiving notice from the District.
 - (3) Should any surety at any time not be a California admitted surety, notice will be given to the District to that effect. No further payments shall be deemed due or shall be made under this Construction Services Agreement until a new surety shall qualify and be accepted by the District.
 - (4) Changes in the work, or extensions of time, made pursuant to the Construction Services Agreement shall in no way release the Contractor or the surety from its obligations. Notice of such changes or extensions shall be waived by the surety.
- D. Contractor is hereby authorized to obtain a Performance and Payment Bond from any subcontractors selected by Contractor at its discretion. Any bonds required by this subsection shall comply with the requirements set forth above in Section 19 (A)-(C).

SECTION 20 SUBLEASE PAYMENTS AND RETENTION

Contractor shall finance the cost of construction of the Project which costs shall not exceed the GMP, except as otherwise provided in this Construction Services Agreement. Subject to the provisions set forth in the Sublease Agreement, each month while Contractor is providing Construction Services, District shall pay to Contractor a sum equal to ninety percent (90%) of value of the construction service work performed up to the last day of the previous month, less aggregate of previous payments. If all of the necessary information is submitted and accurate (including the schedule of values), District shall approve the Lease Payments within fifteen (15) days after District's receipt of the periodic estimate for partial payment and District shall pay such payments within fifteen (15) days after the District's approval of the periodic estimate for partial payment. Notwithstanding the above, after fifty percent (50%) of the Construction Services work has been completed, as determined by the Architect, the District, in its reasonable discretion, may increase any remaining Progress Payments to one hundred percent (100%) of the value of the construction work performed for that applicable pay period. Lease Payments shall be made on the basis of monthly estimates which shall be prepared by Contractor on a form approved by District and certified by Architect and Project Inspector, or any other approved representative of the District, and filed before the fifth day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall release Contractor or any bondsman from such work or from enforcing each and every provision of this document and District shall have the right subsequently to correct any error made in any

estimate for payment. Contractor shall not be entitled to have any payment estimates processed or be entitled to have any payment made for work performed so long as any lawful or proper direction concerning non-complying work or any portion thereof given by the District lacks correction by Contractor. District shall withhold from the Progress Payments 150% of the estimated value of non-complying work unless satisfactorily corrected or remedied.

In no event shall the cumulative total of the Lease Payments, along with the balance of any anticipated retention ever exceed the GMP as defined herein, unless modified pursuant to Article 9 of this document.

- A. Title to new materials and/or equipment for the work of this contract, on a continuous basis while the Project is being completed, shall vest in the District. However, responsibility for such new material and/or work of this contract shall remain with the Contractor until incorporated into the work and accepted by District; no part of said materials and/or equipment shall be removed from its place of storage except for immediate installation in the work of this contract; and Contractor shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to the owner or his authorized representative.
- B. District may pay Contractor Sublease Prepayments pursuant to the terms and conditions set forth in Section 26 of the Sublease and this Section 20, which terms and conditions include the ten percent (10%) described in Section 26 of the Sublease (the "retention"). The District shall retain and release such retention pursuant to Public Contract Code sections 7107 and 9203, as those sections may be amended from time to time. Provided, however, prior to, and as a condition precedent for the release of retention, the Contractor shall provide the District with all written documentation required by the SAB's DVBE policy attached hereto as Exhibit "C."

SECTION 21 CORRECTION OF WORK: WARRANTY

Neither final payment nor any provision in the Contract Documents shall relieve Contractor of responsibility for faulty materials or workmanship incorporated in the Project. Contractor warrants that all work under this Construction Services Agreement will be free of faulty materials or workmanship and hereby agrees, within ten (10) days upon receiving notification from District, to remedy, repair or replace, without cost to District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one (1) years after the date of substantial completion of the Project, as defined in Section 10 hereof. The foregoing warranty of Contractor also applies to the remedy, repair or replacement of defects which may appear as a result of faulty designs prepared by Contractor and/or any party retained by, through or under Contractor in connection with the Project, but the foregoing warranty of Contractor does not guarantee against damage to the Project sustained by use, wear, intentional acts, accidents, or lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Contractor, except where such changes or additions to the Project are made in accordance with Contractor's directions. No guarantee furnished by a party other than Contractor with respect to equipment manufactured or supplied by such party shall relieve Contractor from the foregoing warranty obligation of Contractor. The warranty period set forth herein above shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply. Contractor agrees to provide the District with all equipment and materials warranties provided by manufacturers to District but has no obligation to assist in processing such warranty claims after said one (1) year warranty period.

SECTION 22 ASSIGNMENT OF ANTI TRUST CLAIMS

The Contractor offers and agrees to assign to the District all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchase of goods, services, or materials pursuant to

the Construction Services Agreement. This assignment shall become effective at the time the District tenders the final Lease Payment to Contractor, without further acknowledgment by the parties.

SECTION 23 PROTECTION OF PERSONS AND PROPERTY

- A. By execution of this Construction Services Agreement, Contractor acknowledges that Contractor, its employees and subcontractors are required to comply with the fingerprinting requirements set forth in Education Code Section 45125.1. However, in lieu of complying with Section 45125.1, Contractor may comply with the provisions of Education Code Section 45125.2 which requires that the Contractor, at its own expense (1) install a physical barrier to limit contact with students by Contractor, Contractor's employees and subcontractors, or (2) provide for the continuous supervision and monitoring of the Contractor, Contractor's employees and subcontractors by an employee of the Contractor who has received fingerprint clearance from the California Department of Justice, or (3) provide for the surveillance of the Contractor, Contractor's employees and subcontractors by a District employee.
- B. In the event District determines, based on the totality of the circumstances, that the Contractor, Contractor's employees and subcontractors will have only limited contact with pupils, Contractor shall, at its own expense be subject to the following preventative measures: (1) Contractor, Contractor's employees and subcontractors shall check in with the school office each day immediately upon arriving at the Project Site; (2) Contractor, Contractor's employees and subcontractors shall inform school office staff of their proposed activities and location at the Project Site; (3) Once at such location Contractor and/or Contractor's employees and subcontractors shall not change locations without contacting the school office; (4) Contractor, Contractor's employees and subcontractors shall not use student restroom facilities; and (5) If Contractor, Contractor's employees and subcontractors find themselves alone with a student, Contractor, Contractor's employees and subcontractors shall immediately contact the school office and request that a member of the school staff be assigned to the work location.
- C. Prior to, and as a condition to commencement of Contractor's performance under this Construction Services Agreement, Contractor shall complete the Fingerprint Certification attached to hereto as Exhibit "F," and by this reference incorporated herein.
- D. Contractor shall at all times enforce orderly and disciplined conduct among those performing work on the Project and shall not employ on the work any unfit person not skilled in the task assigned to him, except as provided in Section 16 hereof.
- E. Contractor, in performing the work, shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. Contractor shall erect and maintain, as required by existing conditions and progress of the Project, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, and shall promulgate safety regulations and notify owners and users of adjacent utilities. Contractor shall designate a responsible member of Contractor's organization employed at the Site of the Project whose duty shall be the prevention of accidents. Such person shall be Contractor's Field Project Manager/Superintendent unless otherwise designated in writing by Contractor to District.
- F. In any emergency affecting the safety of persons or property, Contractor shall act at its discretion to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by Contractor on account of such emergency shall be determined by mutual agreement between District and Contractor.

SECTION 24 INSPECTION OF WORK/ INSPECTOR AND ARCHITECT

- A. **Inspection of Work/Inspector.** The District shall hire its own Division of State Architect Inspector as required by law. District, District's Representatives, and the Division of the State Architect shall at all times have access to the work whether it is in preparation or progress, and Contractor shall provide proper facilities for such access and for inspection.
- (1) If the specifications, District's timely instructions, the Division of the State Architect, or any public authority shall require the Site or the Project to be specially tested or approved, Contractor shall give District forty-eight (48) hour notice of its readiness for inspection and, if the inspection is to be performed by a party other than the District, of the date fixed for such inspection. Inspections by District shall be promptly made, and, where practicable, shall be at the source of supply. If any work required to be inspected by the specifications, District's timely instruction or by a public authority should be covered up without the approval or consent of District, it must, if required by District, be uncovered for examination at Contractor's expense.
- (2) Re examination of questioned work may be ordered by District and if so ordered, such work shall be uncovered by Contractor. If such work is found to be in accordance with the Contract Documents, District shall pay the cost of re examination and replacement. If such work is not in accordance with the Contract Documents, Contractor shall pay such costs, unless Contractor can demonstrate to the reasonable satisfaction of District that the defects in such work were caused by persons or entities other than Contractor or any of its subcontractors or employees.
- B. **Inspector's Field Office.** Contractor shall provide for the use of Inspector a separate trailer or temporary private office of not less than seventy five square feet of floor area to be located as directed by Inspector and to be maintained until removal is authorized by District. The office shall be of substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. Door shall have a key type lock or padlock hasp. The Inspector's field office shall have heating and air-conditioning and shall be equipped with a telephone, a telephone answering machine, a fax machine and use of an on-site copier at Contractor's expense. A table satisfactory for the study of plans and two chairs shall be provided by Contractor. Contractor shall provide and pay for adequate electric lights, local telephone service, and adequate heat and air conditioning for the field office until authorized removal.
- C. **District's Field Office.** Contractor shall provide for the use of the District a separate trailer or temporary private office of not less than seventy five square feet of floor area to be located as directed by District and to be maintained until removal is authorized by District. The office shall be of substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. Door shall have a key type lock or padlock hasp. The District's field office shall have heating and air-conditioning and shall be equipped with a telephone, a telephone answering machine, a fax machine and use of an on-site copier at Contractor's expense. A table satisfactory for the study of plans and two chairs shall be provided by Contractor. Contractor shall provide and pay for adequate electric lights, local telephone service, and adequate heat and air conditioning for the field office until authorized removal.
- D. **Architect.**
- (1) **Architect's Status.** In general and where appropriate and applicable, the Architect shall observe the progress and quality of the work on behalf of the District. The Architect shall have the authority to act on behalf of District only to the extent expressly provided in this Construction Services Agreement. After consultation with the Inspector and after using his/her best efforts to consult with the District, the Architect shall have authority to stop work whenever such stoppage may be necessary in his reasonable opinion to insure the proper execution of the Construction Services Agreement. Contractor further

acknowledges that the Architect shall be, in the first instance, the judge of the performance of this Construction Services Agreement

- (2) Architect's Decisions. Contractor shall promptly notify District in writing if the Architect fails within a reasonable time, make decisions on all claims of the District or Contractor and on all other matters relating to the execution and progress of the Project.

SECTION 25 SUPERVISION

- A. Contractor shall maintain on site a competent Field Project Manager/Superintendent and necessary assistants during the work. The Field Project Manager/Superintendent shall represent Contractor and all directions given to the Field Project Manager/Superintendent shall be deemed to have been given to Contractor. Important directions shall be confirmed in writing to Contractor, and other direction shall be so confirmed to Contractor upon the written request of Contractor, in accordance with Section 47 hereof and the address listed therein. Replacement of the Field Project Manager/Superintendent shall be subject to the provisions of Section 12 above.
- B. Contractor shall give efficient supervision to the work, using its skill and attention and shall cause working drawings and specifications to be prepared and submitted to the District. Following agreement by Contractor and District with respect to said working drawings and specifications, it shall be Contractor's responsibility to perform the work described in said working drawings and specifications in compliance with the Construction Documents. Notwithstanding the foregoing, Contractor may from time to time make minor and insignificant changes in said working drawings and specifications and perform the construction in accordance with such changed drawings and specifications without the consent of the District, provided that any such work performed by Contractor in accordance with such changed drawings and specifications shall be consistent with that specifically required to be performed by Contractor under the Construction Documents. For purposes of this Section, the term "minor and insignificant" shall mean changes which result in no change in quality, aesthetics or integrity of the original specifications of the Project. All changes, including minor and insignificant changes to the extent possible, should be placed on the agenda for regularly scheduled construction meetings between Contractor and District to ensure that District is aware of such changes. District agrees to promptly respond to Contractor's requests for information and approvals; and if it fails to do so, Construction Services Agreement completion dates will be extended.

SECTION 26 SEPARATE CONTRACTS

- A. District reserves the right to let other contracts in connection with the construction of portions of the Project which are not being performed by Contractor hereunder. Any such contracts entered into by the District, and the work they provide for shall in no event interfere with the activities of the Contractor on the Project, but if they do, the District shall be liable to Contractor for its damages in connection with such interference. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the Project with the work of such Contractors. Such contractors shall comply with all applicable State safety laws and regulations and shall provide a certificate of insurance naming Contractor as additional insured.
- B. If the proper execution of any part of the Contractor's work on the Project depends upon the work of any such Contractors, Contractor shall inspect and promptly report to District any patent defects or other problems it identifies in such work that render it unsuitable for such proper execution and results. Contractor is only required to inspect the work of such other Contractors prior to commencing its own further work in connection with or in relation to that other work. Further, Contractor is only expected to identify patent defects or other problems, and is not required to do any destructive testing or to monitor the progress of such work by other Contractors prior to its completion. In no event shall the work of such other Contractors be covered by the warranty

given by Contractor to the District, nor shall Contractor be required to provide insurance for such work.

SECTION 27 USE OF PREMISES/SAFETY

Contractor shall confine operations at the Site to areas permitted by law, ordinances, permits and the Construction Documents and shall not unreasonably encumber the Site or existing facilities on the Site with any materials or equipment. Contractor shall not load or permit any part of the work to be loaded with a weight so as to endanger the safety of persons or property at the Site. The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

SECTION 28 CLEANING UP

Contractor shall at all times keep the Site of the Construction free from accumulations of waste material or rubbish caused by the performance of the Construction by Contractor, and at the completion of the Construction, Contractor shall remove from the Site of the Construction all such waste material and rubbish and all tools, scaffolding and surplus materials belonging to Contractor and/or Contractor's subcontractors, laborers or materialmen, it being specifically understood that at the close of construction and prior to turning over the premises to the District for beneficial use and occupancy, Contractor shall leave the Site "broom clean," or its equivalent, unless more exactly specified.

SECTION 29 SITE REPRESENTATIONS

District warrants and represents that District has, and will continue to retain at all times during the course of construction, legal title to the Site and that said land is properly subdivided and zoned so as to permit the construction and use of said Site. District further warrants and represents that title to said land is free of any easements, conditions, limitation, special permits, variances, agreements or restrictions which would prevent, limit, or otherwise restrict the construction or use of said facility. However, in the event easements for permanent structures or permanent changes in existing facilities are necessary, they shall be secured and paid for by District, unless otherwise specified. Reference is made to the fact that District has provided information on the Site to Contractor. Such information shall not relieve the Contractor of its responsibility; and the interpretation of such data regarding the Site, as disclosed by any borings or other preliminary investigations, is not warranted or guaranteed, either expressly or implicitly, by the District. The Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site and for having satisfied himself as to the conditions under which the work is to be performed. No claim for any allowances because of Contractor's error or negligence in acquainting himself with the conditions at the Site will be recognized.

SECTION 30 TRENCH SHORING

A. **Trenches Five Feet or More in Depth.** The Contractor shall submit to the District, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. The Contractor shall also submit a copy of its annual trench/excavation permit approved by CAL-OSHA. The plan shall be prepared by a registered civil or structural engineer. As part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with CAL OSHA Construction Safety Orders, or stating that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping, or other provisions of the Safety Orders.

- (1) All shoring submittal shall include surcharge loads from adjacent embankments, construction loads and spoil bank. Submittal shall indicate minimum horizontal distance from top of trench to edge of all surcharge loads for all cases of shoring and side slopes.

- (2) Nothing in this Section shall relieve Contractor of the full responsibility for providing shoring, bracing sloping, or other provisions adequate for worker protection. If such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer and shall be approved by CAL-OSHA. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the District or the person to whom authority to accept has been delegated by the District.

SECTION 31 HAZARDOUS WASTE AND UNKNOWN PHYSICAL CONDITIONS

- A. Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:
 - (1) Material that Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
 - (2) Subsurface or latent physical conditions at the Site differing from those indicated, including geological, soils, and or water table issues which impede construction or increase Construction Costs.
 - (3) Unknown physical conditions at the Site (not including structures or improvements) of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Construction Services Agreement.

Contractor shall use industry recognized best practices to avoid disturbance of any unknown physical conditions and shall inform the District promptly of any disturbance in order to comply with the forgoing.

- B. District shall promptly investigate the conditions, and if it finds that the conditions to materially so differ, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the work may approve use of funds from the District's Contingency pursuant to the procedures described in the Construction Services Agreement. If asbestos related work or hazardous substance removal is discovered which is not disclosed in the Construction Documents, such work shall be performed pursuant to a contract separate from any other work to be performed as required by Section 25914.2 of the Health and Safety Code, as may from time to time be amended.
- C. In the event that a dispute arises between District and Contractor whether the conditions set forth in Paragraph A above materially differ, or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from any scheduled completion date provided for by this Construction Services Agreement but shall proceed with all work to be performed under the Construction Services Agreement. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.
- D. The Provisions of Section 31 (A) - (C), above, shall also apply to this Construction Services Agreement if this Construction Services Agreement involves digging trenches or other excavations that extend deeper than four feet below the surface.

SECTION 32 INSURANCE

- A. Contractor's Insurance Requirements

(1) The Contractor shall purchase and maintain, during the performance of all work under this Construction Services Agreement insurance in amounts as specified below in this Construction Services Agreement.

a. Commercial General Liability

i. Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(a) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001)

(b) Commercial General Liability Insurance must include coverage for the following:

(i) Bodily Injury and Property Damage

(ii) Personal Injury/Advertising Injury

(iii) Premises/Operations Liability

(iv) Products/Completed Operations Liability

(v) Aggregate Limits that Apply per Project

(vi) Explosion, Collapse and Underground (UCX) exclusion deleted

(vii) Contractual Liability with respect to this Contract

(viii) Broad Form Property Damage

(ix) Independent Contractors Coverage

ii. All such policies shall name the Colton Joint Unified School District, the board and each member of the board, its officers, employees, agents and volunteers as Additional Insureds under the policy.

iii. The general liability program may utilize either deductibles or provide coverage excess of a self insured retention, subject to written approval by the District.

(2) Automobile Liability

a. At all times during the performance of the work under this Construction Services Agreement the Contractor shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non owned and hired vehicles, in a form and with insurance companies acceptable to the Colton Joint Unified School District, in the amount specified below in this Construction Services Agreement.

b. Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 (ed. 6/92) covering automobile liability, Code 1 (any auto).

- c. The automobile liability program may utilize deductibles, but not a self insured retention, subject to written approval by the Colton Joint Unified School District.
 - d. All such policies shall name the Colton Joint Unified School District, the board and each member of the board, its officers, employees, agents and volunteers as Additional Insureds under the policies.
- (3) Workers' Compensation/Employer's Liability
- a. The Contractor shall provide, during the life of this contract, workers' compensation insurance in compliance with applicable statutory requirements and Employer's Liability Coverage in amounts not less than the limits specified below in this Construction Services Agreement for all of his employees engaged in work under this Construction Services Agreement, on or at the site of the project, and, in case any of his work is sublet, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this contract, on or at the site of the project, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor shall file with the District certificates of his insurance protecting workers.
 - b. Company or companies providing insurance coverage shall be acceptable to the District, and in the following form and coverage.
 - i. Statutory Workers' Compensation and Employer's Liability Coverage: Contractor shall maintain insurance to afford protection for all claims under California Workers' Compensation Act and other employee benefit acts, and in addition, shall maintain Employer's Liability Insurance for a minimum limit of \$1,000,000. The Workers' Compensation Policy shall include the following endorsements, copies of which shall be provided to District:
 - (a) The Voluntary Compensation Endorsement; and
 - (b) Broad Form All States Endorsement; and
 - (c) The Longshoremen's and Harbor Workers endorsement, where applicable to the work under this contract; and
 - (d) Waiver of Subrogation Endorsement.
 - c. If insurance is maintained, the workers' compensation and employer's liability program may utilize either deductibles or provide coverage excess of a self insured retention, subject to written approval by the Colton Joint Unified School District.
 - d. Before beginning work, the Contractor shall furnish to the District satisfactory proof that he/she has taken out for the period covered by the work under this Construction Services Agreement full compensation insurance for all persons

employed directly by him/her or through subcontractors in carrying out the work contemplated under this Construction Services Agreement all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof.

- e. Contractor shall sign a Certificate Regarding Workers' Compensation Insurance which is attached to this Construction Services Agreement as Exhibit "G" incorporated herein by this reference.

(4) **Builder's Risk "All Risk" Insurance**

- a. Unless the District elects, in writing, to obtain and pay for such insurance coverage outside of the GMP, at all times during the performance of the work, Contractor shall maintain builder's risk insurance on an "all risk" completed value basis (including flood) upon the entire project which is the subject of the Construction Services Agreement. Coverage shall include completed work as well as work in progress. Such insurance shall include the Colton Joint Unified School District as Loss Payee.
- b. Such insurance may have a deductible clause but not to exceed the smaller of: five percent (5%) of the total amount of the Contract; or \$10,000.00 for all risks, except flood. The deductible for flood shall not exceed five percent (5%) of the total amount of the Construction Services Agreement.
- c. Such policies shall name the Colton Joint Unified School District as Additional Insured.
- d. The making of Sublease Payments or Sublease Prepayments to the Contractor shall not be construed as creating an insurable risk interest by or for the District or be construed as relieving the Contractor or his subcontractors of responsibility for loss from any direct physical loss, damage, or destruction occurring prior to final acceptance of the work by the District.
- e. The insurer shall waive all rights of subrogation against the Colton Joint Unified School District and shall provide the District with a Certificate of Insurance for Builder's Risk insurance coverage and evidence of waiver of rights of subrogation against the Colton Joint Unified School District.

B. Minimum Policy Limits Required

The following insurance limits are required for the Contract:

	Combined Single Limit
Commercial General Liability	\$3,000,000 per occurrence/5,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Builder's Risk	Completed value or replacement cost

C. Evidence Required

- (1) Prior to execution of the Construction Services Agreement the Contractor shall file with the District evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 2010 (ed. 11/85) (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (ACORD Form 25 S or equivalent). All evidence of insurance shall be certified by a properly authorized officer, agent or qualified representative of the insurer and shall certify the names of the insured, any additional primary insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

D. Policy Provisions Required

- (1) All policies shall contain a provision for 30 days advance written notice by the insurer(s) to the District of any cancellation. Statements that the carrier "will endeavor" and "that failure to mail such notice shall impose no obligation and liability upon the company, its agents or representatives," will not be acceptable on certificates.
- (2) All policies shall contain a provision stating that the Contractor's policies are primary insurance and that the insurance of the Colton Joint Unified School District or any named insureds shall not be called upon to contribute to any loss.

E. Qualifying Insurers

- (1) All policies required shall be issued by acceptable insurance companies, as determined by the Colton Joint Unified School District, which satisfy the following minimum requirements:
 - a. Insurance carriers shall be qualified to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A" policyholder's rating and a financial rating of not less than "Class VII" according to the latest Best Key Rating Guide.

F. Additional Insurance Provisions

- (1) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor and any approval of said insurance by the District, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Construction Services Agreement including but not limited to, the provisions concerning indemnification.
- (2) If at any time during the life of the Construction Services Agreement the Contractor fails to maintain in full force any insurance required by the Construction Services Agreement, including required limits, the District may acquire the necessary insurance for the Contractor and deduct the cost thereof from the appropriate Sublease Payments due the Contractor, or Sublease Prepayments made by the District.
- (3) The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Construction Services Agreement. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold District harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by District as a result thereof.

- (4) If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly so state. In addition to the coverage requirements specified above, such policy shall provide that:
- a. The policy retroactive date coincides with or precedes Contractor's commencement of work under this Construction Services Agreement (including subsequent policies purchased as renewals or replacements).
 - b. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following expiration of this Construction Services Agreement, including the requirement of adding all additional insureds.
 - c. If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least two years to report claims arising in connection with the Construction Services Agreement.
 - d. The policy allows for reporting of circumstances or incidents that might give rise to future claims.
 - e. The District may require the Contractor to provide complete copies of all insurance policies in effect for the duration of the Project.
 - f. Neither the District nor the Board, nor any member of the Board, nor any of the directors, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of the Construction Services Agreement.

SECTION 33 HOLD HARMLESS

The District, its Board and each member of the Board, its officers, employees and agents shall not be liable for, and Contractor shall defend, indemnify and hold harmless the District, its Board and each member of the Board, its officers, employees and agents from and against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, injuries to property or persons (including death), expenses, charges or costs of any kind or character, including attorneys' fees and court costs (herein collectively referred to as "Claims") which arise out of or are in any way connected to the work covered by this Construction Services Agreement arising either directly or indirectly from any act, error, omission or negligence of Contractor or its contractors, consultants, architects, engineers, licensees, agents, servants or employees, including, without limitation, Claims caused by the concurrent act, error, omission or negligence of District or its agents or employees. However, Contractor shall have no obligation to defend or indemnify District from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence, or willful misconduct of District or its agents or employees.

Furthermore, while the Project shall only be considered complete after District accepts completion of the Project and records a Notice of Completion for the Project, it is envisioned by the Parties that District may occupy a portion of the Project prior to substantial completion of the overall scope of work for the Project. District reserves the right to occupy portions of the Project, once complete, which use may occur prior to completion of the remainder of the Project. Any such partial occupancy by District shall occur without District's interfering with or delaying the construction of the Project, and District shall indemnify, defend and hold Contractor, its officers, agents and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any such early occupancy, except for any liability resulting from the active and primary negligence or willful misconduct of Contractor, its officers, employees, agents or employees.

SECTION 34 RESOLUTION OF AGREEMENT CLAIMS

- A. For purposes of this section, the term "Claim" has the meaning as set forth in Public Contract Code section 20104(b)(2), as that section may be amended from time to time. Section 20104(b)(2) currently defines "claim" to mean a separate demand by the Contractor for (a) time extension, (b) payment of money or damages arising from work done by or on behalf of the Contractor pursuant to the Construction Services Agreement and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (c) an amount the payment of which is disputed by the District.
- B. Notwithstanding any other provision herein, all claims that are equal to or less than Three Hundred Seventy-five Thousand Dollars (\$375,000) shall be resolved pursuant to Public Contract Code section 20104 et seq., as may be amended from time to time, and which provisions are incorporated herein by reference.
- C. For claims not addressed in Section 34 (A) and (B) above, the dispute review process set forth in this subsection (C) shall apply
- (1) The dispute review process set forth in this Section 34 shall be administered by the American Arbitration Association (AAA) and governed by their rules in effect at the time of filing, or by any other neutral organization agreed to by the parties (hereinafter called "Administrator".)
 - (2) If a dispute arises out of, or relates to this Construction Services Agreement or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree to first endeavor to settle the dispute using mediation.
 - (3) The costs for all mediation, including the Administrative fees and mediator compensation, will be shared equally by all parties. Fees shall be jointly negotiated by all parties directly with the Administrator. If all parties agree, then the mediation costs may increase as required for resolution of the dispute. The expenses of witnesses for any party shall be paid by the party producing such witnesses.
 - (4) A single mediator, acceptable to all parties, shall be used to mediate the dispute. The mediator will be knowledgeable in construction aspects and will be selected from lists furnished by the Administrator. The initial mediation session shall commence within thirty (30) days of filing, unless otherwise agreed by the parties, or at the direction of the mediator.
 - (5) Mediation hearings will be conducted in an informal manner and discovery will not be allowed unless agreed by all parties. All discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose as it relates to the party's legal position.
 - (6) Spokespersons shall be limited to the District, Contractor, Subcontractor, and Supplier personnel and their consultants. Contractor, Subcontractor and Supplier may have an attorney present and shall advise the other parties no less than five (5) business days before the mediation so that the other parties may also have their attorneys present.
 - (7) Any resultant agreements from mediation shall be documented in writing, and may be used as the basis for a change order or other directive as appropriate. All mediation results and documentation shall be non-binding and inadmissible for any purpose in any legal proceedings, in accordance with Evidence Code Section 1152, unless such admission is otherwise agreed in writing by all parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

- (8) If mediation is unsuccessful, the parties thereafter shall, agree to submit the matter to the Administrator for binding arbitration. The following provision shall govern such arbitration, unless the parties otherwise agree in writing. The parties agree that the matter shall be submitted to one (1) arbitrator, unless they agree in writing to three (3) arbitrators. A judgment of a court having competent jurisdiction may be entered upon the award, and such judgment shall be enforceable as a final judgment to the fullest extent under the law. The parties agree to split evenly all arbitration and arbitrator(s)' fees and expenses, subject to readjustment by the arbitrator as part of any award. The arbitration shall be subject to, and proceed in accordance with California Code of Civil Procedure, Sections 1280 through 1294.2.

SECTION 35 SUBSTITUTION OF SECURITY

In accordance with Public Contract Code section 22300, the District will permit the substitution of securities for any moneys withheld by the District to ensure performance under the Construction Services Agreement. At the request and expense of the Contractors, securities equivalent to the amount withheld shall be deposited with the District, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the Contractor. Upon satisfactory completion of the Construction Services Agreement the securities shall be returned to the Contractor.

SECTION 36 TITLE TO WORK

Title to all work completed and in the course of construction paid for by District and title to all materials on account of which payment has been made by District to Contractor shall vest in District pursuant to the applicable provisions of the Lease.

SECTION 37 CONTRACT DOCUMENTS AND INTERPRETATIONS

- A. The Contract Documents shall be executed, and/or initialed as appropriate, in duplicate by District and Contractor. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, services and materials reasonably necessary for the proper execution of the work.
- B. It is not intended that work and/or services not covered under any heading, section, branch, class or trade of the specifications shall be supplied, unless it is required elsewhere in the Contract Documents or is reasonably inferable therefrom as being necessary to produce the intended results, in which case such work and/or services shall be supplied by Contractor. Words which have well known technical or trade meanings are used herein in accordance with such recognized meanings. Mutual agreement shall be reached with respect to words which do not have a well known technical or trade meaning and the definition of which come into question.
- C. Drawings and specifications are intended to be fully cooperative and to agree. All drawing and specification changes shall be dated and sequentially recorded. All modifications to drawings and specifications shall be interpreted in conformity with the Contract Documents, which shall govern, unless otherwise specified.
- D. Documents on the Project Site. Contractor shall keep one copy of all Contract Documents, including addenda, change orders, Division I, Title 21 of the California Code of Regulations, Parts 1-5 and 12 of Title 24, and Title 22 of the California Code of Regulations, and the prevailing wage rates applicable to the Project, which are a part of Contract Documents, on job at all times. Said documents shall be kept in good order and shall be available to District representative, Architect and his representatives. Contractor shall be acquainted with and comply with the provisions of said Titles 21, 22 and 24 as they relate to this Project. (See particularly Duties of the Contractor, Title 24 California Code of Regulations, section 4343.) Contractor shall also be acquainted with and comply with all California Code of Regulations provisions relating to this project, particularly

Titles 17, 19, 21, 22 and 24.) Contractor shall also make available all books, records, accounts, contracts, bids, etc. upon request of District.

- E. **Record "As Built" Drawings.** Contractor shall maintain a clean, undamaged set of contract drawings and shop drawings. In addition to maintaining one complete set of record drawings (herein referred to as "as-builts"), Contractor shall require each trade contractor/subcontractor to do its own as-builts. The trade contractor/subcontractor as-builts shall contain information showing clean and clear drawings with horizontal and vertical controls suitable for conversion to electronic media. Graphic quality must be equal to clean and clear original drawings; adequacy of the drawings shall be determined by the District's Representative or Architect. Contractor shall mark the set to show the actual installation where the installation varies from the work as originally shown. Contractor shall mark whichever drawings are most capable of showing conditions fully and accurately where shop drawings are used, and shall record a cross-reference at the corresponding location on the contract drawings. Contractor shall give particular attention to concealed elements that would be difficult to measure and record at a later date. Contractor shall use colors to distinguish variations in separate categories of the work. Contractor shall note related change order numbers where applicable. Contractor shall organize record drawings sheets into manageable sets, bound with durable paper cover sheets and shall print suitable title, dates and other identification on the cover of each set. At the end of the Project, the Contractor shall provide the District with a complete set of as-built drawings. The complete set shall contain information showing clean and clear drawings with horizontal and vertical controls suitable for conversion to electronic media. Graphic quality must be equal to clean and clear original drawings; adequacy of the drawings shall be determined by the District or Architect. The as-builts must show the entire site for each major trade, including but not limited to water, sewer, electrical, data, telephone, cable, fire, alarm, gas, and plumbing.

SECTION 38 REQUEST FOR SUBSTITUTIONS

Requests for Substitutions shall be performed in accordance with Section 01630 of the Plans and Specifications for the Project.

SECTION 39 COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

- A. The Contractor shall be required to comply with all conditions of the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (Permit) for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale. The Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit. The Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) prior to initiating Work. It shall be the Contractor's responsibility to evaluate the cost of procuring the Permit and preparing the SWPPP as well as complying with the SWPPP and any necessary revision to the SWPPP. The Contractor shall comply with all requirements of the State Water Resources Control Board. The Contractor shall include all costs of compliance with specified requirements in the GMP.
- B. Contractor shall be responsible for procuring, implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the District and the Architect.
- C. The Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

- D. Failure to comply with the Permit is in violation of federal and state law. The Contractor hereby agrees to indemnify and hold harmless the District, its Board members, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which the District, its Board members, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct or active negligence of the District, its Board members, officers, agents, employees or authorized volunteers. District may seek damages from the Contractor for delay in completing the Project in accordance with Section 10 hereof, caused by the Contractor's failure to comply with the Permit.

SECTION 40 EQUAL OPPORTUNITY CLAUSE

- A. The Contractor herein agrees not to discriminate in its recruiting, hiring, promotion, demotion or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age or physical handicap in the performance of this Construction Services Agreement and to comply with the provisions of the following laws:
- (1) California Fair Employment and Housing Act (Gov. Code 12900 et seq., prohibiting discrimination in employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex, and prohibiting harassment of an employee or applicant because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age);
 - (2) Federal Civil Rights Act of 1964 (42 USC 2000e et seq., prohibiting discrimination in employment on the basis of race, color, national origin, religion, or sex); Title I of the Americans With Disabilities Act of 1990 (42 USC 12101 et seq., prohibiting discrimination against qualified individuals with a disability in hiring and employment practices);
 - (3) The Age Discrimination in Employment Act (29 USC 621 et seq., prohibiting age discrimination in employment against individuals who are at least forty years of age);
 - (4) California Labor Code section 1102.1 (prohibiting discrimination in any aspect of employment or opportunity for employment based on actual or perceived sexual orientation); and
 - (5) Any other laws or regulations prohibiting discrimination as may be applicable to Contractor.

SECTION 41 COMPLIANCE WITH DTSC GUIDELINES – IMPORTED SOIL/SOILS INSPECTION

- A. If the Project requires the use of imported soils, the Contractor shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land uses. Contractor must notify the District of the source of material and comply with the applicable Regional Water Quality Control Board Resolution 95 63 and when applicable, with the guidelines of the Department of Toxic Substances Control (DTSC).
- B. Unless otherwise provided, when a soils investigation report obtained from test holes at the site is available, such report shall not be a part of this contract. Nevertheless, with respect to any such soils investigation and/or geotechnical report regarding the site, it shall be the responsibility of the Contractor to review and be familiar with such report. Any information obtained from such

report or any information given on drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, and does not form a part of the contract, unless otherwise specifically provided. Contractor is required to make a visual examination of site and must make whatever tests it deems appropriate to determine the underground condition of the soil. Limited soil tests and subsurface investigations, if any, are available for review and consideration by Contractor and were conducted for the purpose of design only. Subsurface investigation information is made available by District solely as a matter of convenience and general information for Contractor and Contractor is expected to review and be familiar with such information. No representation is made by District or Architect that information provided is completely representative of all conditions and materials which may be encountered. If such a report is referenced in the Contract Documents for performance of the Project, such reference shall be to establish minimum requirements only. Further, no representation is made by District or Architect that information provided is solely adequate for purposes of construction. District disclaims responsibility for interpretations by Contractor of soil and subsurface investigation information, such as in protecting soil-bearing values, rock profiles, presence and scope of boulders and cobbles, soil stability and the presence, level and extent of underground water. Contractor shall determine means, methods, techniques and sequences necessary to achieve required characteristics of completed Work. Conditions found after execution of the Construction Services Agreement to be materially different from those reported and which are not customarily encountered in the geographic area of the Project shall be governed by provisions of this Construction Services Agreement for unforeseen conditions.

SECTION 42 PATENTS, ROYALTIES, AND INDEMNITIES

The Contractor shall hold and save the District and its officers, agents, and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this Construction Services Agreement, including its use by the District, unless otherwise specifically stipulated in this Construction Services Agreement.

SECTION 43 EXCISE TAX

If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, the District, upon request, will execute a certificate of exemption which will certify (1) that the District is a political subdivision of the state for the purposes of such exemption and (2) that the sale is for the exclusive use of the District. No excise tax for such materials shall be included in the GMP.

SECTION 44 PROHIBITED INTERESTS

No official of District and no District representative who is authorized in such capacity and on behalf of District to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction of Project, shall be or become directly or indirectly interested financially in this Construction Services Agreement or any part thereof. No officer, employee, architect, attorney, engineer or inspector of or for District who is authorized in such capacity and on behalf of District to exercise any executive, supervisory or other similar functions in connection with construction of Project, shall become directly or indirectly interested financially in this Construction Services Agreement or in any part thereof.

SECTION 45 DRUG-FREE WORK PLACE, NO ASBESTOS CERTIFICATION

A. Drug-Free Workplace Certification

- (1) Contractor shall, for all contracts involving state funds, submit a "Drug-Free Workplace Certification." This form is attached hereto as Exhibit "H" and must be signed under the penalty of perjury and dated prior to commencing work on this Project.

B. No Asbestos Certification

- (1) Contractor shall execute and submit an "Asbestos Free Materials Certification" Contractor attached hereto as Exhibit "I", further, is aware of the following:
 - a. Should asbestos containing materials be installed by the Contractor in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will be performed in accordance with the requirements of all applicable laws and will meet the following criteria:
 - ii. Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).
 - iii. The asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.
 - iv. The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.
 - v. The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.
- (2) If removal of asbestos containing materials is part of the Project, the cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred by the District shall be borne entirely by the Contractor.
- (3) Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by the Contractor at his/her risk and at his/her discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of the Construction Services Agreement the Contractor acknowledges the above and agrees to the fullest extent permitted by law to hold harmless the District, its Board and each member of the Board, its officers, employees, agents, representatives, including its architect and assigns, for all asbestos liability which may be associated with this work. The Contractor further agrees to instruct his/her employees with respect to the above mentioned standards, hazards, risk and liabilities.

SECTION 46 LAWS AND REGULATIONS

- A. Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall promptly notify Architect in writing and any necessary changes shall be adjusted as provided in this Construction Services Agreement for changes in work. If Contractor performs any work knowing it to be contrary to such laws,

ordinances, rules and regulations, and without such notice to the District's Architect, it shall bear all costs arising therefrom.

- B. Contractor shall be responsible for familiarity with the Americans with Disabilities Act (ADA) (42 USC 12101 et seq.). Installations of equipment and other devices shall be in compliance with ADA regulations.

SECTION 47 AGREEMENT MODIFICATIONS

No waiver, alteration or modification of any of the provisions of this Construction Services Agreement shall be binding upon either District or Contractor unless the same shall be in writing and signed by both District and Contractor.

SECTION 48 NOTICES

- A. All communications in writing between District and Contractor, including without limitation, applications for payment, shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by telex, telegram, or fax followed by regular mail, addressed as follows:

If to Contractor: DJM Construction Company, Inc.

Attn: David J Morales, President
1540 S. Lewis St.
Anaheim, CA 92805

If to District: Colton Joint Unified School District

851 S. Mt. Vernon
Colton, CA 92324
Attn: Jaime Ayala, Assistant Supt. Business Services

With a Copy to: Atkinson, Andelson, Loya, Ruud & Romo

12800 Center Court Dr.
Cerritos, CA 90703
Fax: 562-653-3333
Attn: Lindsay A. Thorson, Esq.

- B. For the purpose of directions, representatives from Contractor shall be David J Morales and District's Representative shall be Darryl Taylor unless otherwise specified in writing.

SECTION 49 THIRD-PARTY CLAIMS

Pursuant to Public Contract Code section 9201, District shall provide Contractor with timely notification of the receipt of any third-party claim, relating to the Contract. District is entitled to recover its reasonable costs incurred in providing such notification.

SECTION 50 ASSIGNMENT

Neither party to this Construction Services Agreement shall assign this Construction Services Agreement or sublet it as a whole without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder without the prior written consent of District.

SECTION 51 HEADINGS

The headings herein contained are inserted only as a matter of convenience and reference and are not meant to define, limit or describe the scope or intent of the Contract Documents or in any way to affect the terms and provisions set forth herein.

SECTION 52 INTEGRATION/MODIFICATION

This Construction Services Agreement represents the entire understanding of District and Contractor as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

SECTION 53 APPLICABLE LAW/ PROVISIONS REQUIRED BY LAW DEEMED INSERTED

The terms and provisions of this Construction Services Agreement shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Construction Services Agreement the action shall be brought in a state court situated in the County of San Bernardino, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

Each and every provision of law and clause required by law to be inserted in this Construction Services Agreement shall be deemed to be inserted herein and the Construction Services Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party, the Construction Services Agreement shall forthwith be physically amended to make such insertion or correction.

SECTION 54 SUCCESSION OF RIGHTS AND OBLIGATIONS

All rights and obligations under this Construction Services Agreement shall inure to and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, executed this Construction Services Agreement, in duplicate, as of the day and year first above written.

CONTRACTOR:

DISTRICT
COLTON JOINT UNIFIED SCHOOL DISTRICT

BY:


David J Morales

BY:


Jaime R. Ayala

ITS: President

ITS: Assistant Superintendent

EXHIBIT "A"

SCOPE OF WORK / PLANS AND SPECIFICATIONS /SCHEDULE SPECIFICATIONS

- A-I Scope of Work Description (attached)
- A-II Plans, Sheets, Addendums A thru G (under separate cover)
- A-III Specifications (under separate cover)
- A-IV Schedule Specification (attached)

Drawing #	Title	Drawing #	Title
	NOTED ADDENDUM	A7.001	Door Schedule - Ground Level
	Addendum A - Dated 7/15/10 (Reference Only)	A7.002	Door Schedule - Second Level
	Addendum B - Dated 7/23/10	A7.101	Curtain wall & Storefront Window Schedule
	Addendum C - Dated 7/23/10	A8.001	Finish Schedule - Ground Level
	Addendum D - Dated 8/2/10 (Reference Only)	A8.002	Finish Schedule - Second Level
	Addendum E - Dated 8/13/10	A9.001	Toilet Room Details
	Addendum G - Dated 8/26/10	A9.002	Suspended Acoustic Ceiling Details
		A9.003	Suspended Gypsum Board Ceiling Details
		A9.004	Suspended Plaster Ceiling Details
	GENERAL	A9.005	Firestopping Details - Wood Frame Wall Construction
A1.000	Title Sheet	A9.006	Firestopping Details - Wood Frame Floor Construction
A1.101	General Notes, Abbreviations & Symbols	A9.007	Firestopping Details - Wood Frame Floor Construction
A1.201	Code Analysis	A9.010	Firestopping Details - Conc. & Masonary Construction
A1.202	Code Analysis Existing Plan	A9.011	Firestopping Details - Conc. & Masonary Construction
A1.500	Title 24 Forms	A9.100	Details
A1.501	Title 24 Forms	A9.101	Details
A1.502	Title 24 Forms	A9.102	Storefront Enlarged Plans & Miscellaneous Details
	CIVIL	A9.102A	Curtain Wall Enlarged Plans & Details
C1.000	General Notes	A9.103	Details
C1.101	Survey Plans	A9.104	Details
C2.101	Grading and Drainage Plan	A9.105	Door & Side Light Details
C2.102	Composite Utility Site Plan	A9.106	Signs, Light well & Misc Details
	LANDSCAPE	A9.107	Details
L1.001	Irrigation Plan	A9.108	Casework Details
L2.001	Planting Plan	A9.109	Details
L3.001	Landscape Details	A9.110	Details
	ARCHITECTURAL		STRUCTURAL
A2.101	Existing Campus Site Plan	S1.101	Structural Notes
A2.102	Enlarged - Existing Site Plan	S1.202	Typical Details
A2.103	Existing Site Survey Plan (Reference Only)	S1.103	Typical Details
A2.201	Enlarged - Demolition Site Plan	S3.101	Foundation Plan Science Wing
A2.301	Enlarged (N) Site Plan/Site Emergency and Accessibility Plan	S3.102	Foundation Plan Math Wing
A3.101	Science Wing Ground Level Floor Plan	S3.103	Second Floor Framing Plan Science Wing
A3.102	Math Wing Ground Level Floor Plan	S3.104	Second Floor Framing Plan Math Wing
A3.103	Science Wing Second Level Floor Plan	S3.501	Roof Framing Plan Science Wing
A3.104	Math Wing Second Level Floor Plan	S3.502	Roof Framing Plan Math Wing
A3.301	Enlarged Plans, Ground Level Rooms 104-113, 131 And Second Level Room 231	S4.001	Stair #2 Framing Elevations
A3.302	Enlarged Plans, Ground Level, RMS 115-118, 215-218	S4.101	Stair Details
A3.303	Enlarged Plans, Ground Level Rooms 119, 120 And Second Level Rooms 219-220	S4.102	Details
A3.401	Science Wing Ground Level Reflected Ceiling Plan	S5.101	Stair Framing Section
A3.402	Math Wing Ground Level Reflected Ceiling Plan	S9.001	Foundation Details
A3.403	Science Wing Second Level Reflected Ceiling Plan	S9.101	Framing Details
A3.404	Math Wing Second Level Reflected Ceiling Plan	S9.102	Framing Details
A3.501	Science Wing Roof Plan	S9.103	Framing Details
A3.502	Math Wing Roof Plan	S9.104	Framing Details
A4.001	Enlarge Stair #2 & Elevator Plans & Sections	S9.201	Roof Framing Details
A4.002	Enlarged Stair #2 & Elevator Plans & Sections	S9.202	Roof Framing Details
A4.003	Enlarged Stair #2 & Elevator Plans & Sections		MECHANICAL
A4.004	Enlarged Stair #1 Plans & Sections	M1.000	Mechanical Notes, Symbols & Abbreviations
A4.005	Enlarged Stair #3 Plans & Sections	M1.101	Mechanical Equipment Schedules
A4.006	Enlarged Elevator Plans, Sections & Details	M1.102	Mechanical Equipment Schedules
A4.007	Ramp Details	M1.301	Title 24
A5.001	Exterior Elevations - West	M1.302	Title 24
A5.002	Exterior Elevations - East	M3.101	Science Wing Ground Level Mechanical Floor Plan
A5.003	Exterior Elevations - South	M3.102	Math Wing Ground Level Mechanical Floor Plan
A5.004	Exterior Elevations - North	M3.103	Science Wing Second Level Mechanical Floor Plan
A5.101	Building Sections	M3.104	Math Wing Second Level Mechanical Floor Plan
A5.102	Building Sections	M3.501	Science Wing Mechanical Roof Plan
A5.201	Exterior Wall Sections	M3.502	Math Wing Mechanical Roof Plan
A5.301	Wall Types - 1 Thru 10	M6.001	Control Diagrams
A5.302	Wall Types - 11 Thru 20	M9.001	Mechanical Details
A5.303	Wall Types - 21 Thru 30		PLUMBING
A6.001	Interior Elevations Science Wing	P1.000	Plumbing Legend, Notes & Schedules
A6.002	Interior Elevations - Women's, Men's, Boys', Girls', Janitor's & Prep Rooms	P1.101	Plumbing Legend, Notes & Schedules Plan
A6.003	Interior Elevations Math Wing	P1.401	Plumbing Specifications
A6.004	Interior Elevations	P2.001	Plumbing Site Plan
A6.201	Casework Schedule	P2.301	Plumbing Fire Water Site Plan
		P3.101	Plumbing First & Second Floor Plan

Drawing #	Title	Drawing #	Title
P3.301	Plumbing First Floor Underground, Attic Plan CW & HW		
P3.302	Plumbing First Floor Underground, Attic Plan CW & HW		
P3.303	Plumbing First & Second Floor Plan, Waste and Vent		
P3.304	Plumbing First & Second Floor Plan, Waste and Vent		
P3.305	Plumbing First Floor Plan Low Pres. Gas		
P3.306	Plumbing First Floor Plan Low Pres. Gas		
P3.307	Plumbing First & Second Floor Plan		
P3.501	Plumbing Roof Plan		
P9.001	Plumbing Details		
P9.002	Plumbing Details		
	ELECTRICAL		
E1.000	Symbols, Notes & Abbreviations		
E1.001	General & Demolition Notes		
E1.002	Fixture Schedule and Single Line Diagrams		
E1.002	Fixture Schedule and Title 24 Schedules		
E2.000	Demolition Electrical Site Plan		
E2.100	Electrical Site Plan		
E2.101	Signal and Telecom Site Plan		
E3.101	Science Wing Lighting Plan - First Floor		
E3.102	Math Wing Lighting Plan - First Floor		
E3.103	Science Wing Lighting Plan - Second Floor		
E3.104	Math Wing Lighting Plan - Second Floor		
E4.101	Science Wing Power Plan - First Floor		
E4.102	Math Wing Power Plan - First Floor		
E4.103	Science Wing Power Plan - Second Floor		
E4.104	Math Wing Power Plan Second Floor		
E4.501	Science Wing Power Roof Plan		
E4.502	Math Wing Power Roof Plan		
E5.000	Fire Alarm Notes and Symbols		
E5.001	Fire Alarm Wiring Diagram		
E5.002	Fire Alarm Riser Diagram		
E5.003	Fire Alarm Battery/Voltage Calc.		
E5.100	Fire Alarm Site Plan		
E5.101	Science Wing Fire Alarm Plan First Floor		
E5.102	Math Wing Fire Alarm Plan First Floor		
E5.103	Science Wing Fire Alarm Plan Second Floor		
E5.104	Math Wing Fire Alarm Plan Second Floor		
E5.501	Science Wing PA, Clock & Security Plan First Floor		
E5.502	Math Wing PA, Clock & Security Plan First Floor		
E5.503	Science Wing PA, Clock & Security Plan Second Floor		
E5.504	Math Wing PA, Clock & Security Plan Second Floor		
E6.000	Electrical Details		
E6.001	Electrical Details		
E7.000	Panel Schedules		
E7.001	Panel Schedules		
TE3.001	Science Wing Data & Telecom Plan First Floor		
TE3.002	Math Wing Data & Telecom Plan First Floor		
TE3.003	Science Wing Data & Telecom Plan Second Floor		
TE3.004	Math Wing Data & Telecom Plan Second Floor		
TE5.001	Data & Telecom Details		

Title		Title	
SPECIFICATIONS		DIVISION 7	Thermal & Moisture Protection
<i>Series 0</i>	<i>Documents</i>		
00010	Table of Contents	07130	Sheet Waterproofing
		07180	Traffic Coatings
		07213	Batt Insulation
DIVISION 1	General Requirements	07275	Breathable Underlayment
		07411	Preformed Wall and Roof Panels
01200	Price and Payment Procedures	07420	Plastic Wall Panels
01300	Administrative Requirements	07535	Single Ply Roofing - Protected Membrane
01330	Submittal Procedures	07260	Sheet Metal Flashing and Trim
01400	Qualify Requirements	07724	Roof Hatches
01600	Product Requirements	07810	Applied Fireproofing
01630	Product Substitution Procedures	07840	Firestopping
01700	Execution Requirements	07900	Joint Sealers
DIVISION 2	Site Construction	DIVISION 8	Doors & Windows
02055	Soils	08114	Standard Steel Doors
02060	Aggregate	08115	Standard Steel Frames
0221	Building Demolition	08310	Access Doors and Panels
02311	Rough Grading	08333	Overhead Coiling Doors
02315	Excavation and Fill	08410	Metal-Framed Storefronts
02320	Backfill	08710	Door Hardware
02324	Trenching	08800	Glazing
02374	Erosion Control Devices	08911	Glazed Aluminum Curtain Wall
02811	Landscape Irrigation		
02821	Chain Link Fences and Gates	DIVISION 9	Finishes
02923	Landscape Grading	09205	Metal Furring and Framing
02925	Sodding	09260	Gypsum Board Assemblies
DIVISION 3	Concrete	09300	Tile
		09650	Resilient Flooring
03100	Concrete Forms and Accessories	09842	Stretched Fabric Suspended Acoustic Panels
03200	Concrete Reinforcement	09900	Paints and Coatings
03900	Cast-in-Place Concrete		
03350	Concrete Finishing	DIVISION 10	Specialties
03390	Concrete Curing	10170	Plastic Toilet Compartments
03540	Cementitious Underlayment	10400	Interior Signage
03600	Grout	10523	Fire Extinguishers and Cabinets
DIVISION 4	Masonry	10800	Toilet Accessories
	Not Used	DIVISION 11	Equipment
DIVISION 5	Metals	11332	Projection Screens
05120	Structural Steel	DIVISION 12	Furnishings
05500	Metal Fabrications	12345	Scientific Casework, Chemical Fume Hoods and Equipment
05505	Welded Wire Mesh Enclosure Systems		
05510	Metal Stairs and Ladders	DIVISION 13	Special Construction
05520	Handrails and Railings	13710	Intrusion Detection
05810	Expansion Joint Cover Assemblies	13851	Fire Alarm System
		13910	Basic Fire Suppression Materials and Methods
		13930	Wet Pipe Fire Suppression Sprinklers
DIVISION 6	Wood And Plastics	DIVISION 14	Conveying Systems
06112	Framing and Sheathing	14245	Hydraulic Passenger Elevators
06114	Wood Blocking and Curbing		
06176	Plywood Joists		
06180	Glue-Laminated Construction		
06200	Finish Carpentry		
06410	Custom Cabinets		

DIVISION 15	Title	Title
	<i>Mechanical</i>	
15010	Mechanical General Requirements	
15060	Hangers and Supports	
15075	Mechanical Identification	
15080	Mechanical Insulation	
15120	Piping Specialties	
15140	Domestic Water Piping	
15150	Sanitary Waste and Vent Piping	
15160	Storm Drainage Piping	
15195	Gas Piping	
15410	Plumbing Fixtures	
15736	Packaged Rooftop Air Conditioning Units - Small Capacity	
15810	Ducts	
15820	Duct Accessories	
15850	Air Outlets and Inlets	
15910	Direct Digital Controls	
15950	Testing, Adjusting, and Balancing	
<i>Division 16</i>	<i>Electrical</i>	
16050	Basic Electrical Materials and Methods	
16060	Grounding and Bonding	
16070	Electrical Hangers and Supports	
16075	Electrical Identification	
16095	Minor Electrical Demolition	
16121	Medium Voltage Cable	
16123	Building Wire and Cable	
16130	Raceway and Boxes	
16131	Cabinets and Enclosures	
16140	Wiring Devices	
16141	Floor Boxes	
16150	Wiring Connections	
16262	Emergency Power Supplies	
16271	Pad Mounted Transformers	
16411	Enclosed Switches	
16412	Enclosed Circuit Breakers	
16423	Enclosed Contactors	
16441	Switchboards	
16442	Panelboards	
16461	Dry Type Transformers	
16491	Fuses	
16510	Interior Luminaires	
16520	Exterior Luminaires	
16530	Emergency Lighting	
16570	Lighting Control System	
16711	Telecommunications Basic Materials and Methods	
16712	Telecommunications Ground & Bonding	
16713	Telecommunications Underground Structure	
16714	Telecommunication Cable	
16715	Telecommunication Data Network	
16716	Telecommunication Telephone System	
16720	Telecommunications Acceptance Testing	
16730	Telecommunications Clock System	
16821	Public Address and Music Equipment	
	END OF SPECIFICATION CONTENTS	

EXHIBIT "A"

SCHEDULE SPECIFICATIONS

PART 1 - GENERAL

1.03 PROCEDURES

- A. Within 7 calendar days after date of Notice to Proceed, CONTRACTOR shall submit to DISTRICT for review, a detailed Construction Schedule setting forth all requirements for complete execution of the Work.
- B. Seven (7) calendar days after receipt of the DISTRICT'S review comments, submit a final Construction Schedule acceptable to DISTRICT.
- C. Include a written summary narrative sufficiently comprehensive to explain basis of CONTRACTOR'S approach to work.
- D. If a Construction Schedule is considered by DISTRICT to not be in compliance with any requirement of the Contract, CONTRACTOR will be notified to review and revise the Construction Schedule and bring it into compliance. Failure of CONTRACTOR to submit a Construction Schedule in full compliance with the Contract Documents will result in a delay in progress payment processing. The Construction Schedule is to be used in evaluating progress for payment approval.
- E. Subsequently with each Progress Payment Request, CONTRACTOR shall deliver to DISTRICT an updated Construction Schedule reflecting Work progress to the end of the Progress Payment Request period. Each such Construction Schedule shall indicate actual progress to date in execution of the Work, together with a projected schedule for completion of all the Work.
- F. All schedule submittals are subject to review and acceptance by DISTRICT. DISTRICT retains the right to withhold progress payments until CONTRACTOR submits a Construction Schedule acceptable to DISTRICT.
- G. Concurrent with DISTRICT'S acceptance of CONTRACTOR'S submitted Construction Schedule, shall be CONTRACTOR'S signature of acceptance.

1.04

SCHEDULE SUBMITTAL PREPARATION GUIDELINES

- A. The Contract Work shall be scheduled and progress monitored using a Critical Path Method (CPM) network type scheduling system. Schedule shall be broken into sub-activities which shall, as a minimum, include major suppliers, all submittal approvals, all major trades, plumbing, mechanical, electrical, security, fire, and elevators/escalators. Scheduling system shall indicate all inter-relationships between trades and suppliers.
- B. CONTRACTOR shall utilize Primavera P6 software by Primavera Systems, Inc. to employ the Critical Path Method (CPM) in the development and maintenance of the construction schedule network using the Precedence Diagram Mode (PDM).
- C. Phasing of the Work and shall show any area or building within a particular phase. Schedule shall indicate any and all Contract "milestone events" and other milestones agreed to by DISTRICT but no other manually-imposed dates will be accepted unless approved by DISTRICT.
- D. Construction Schedule shall represent a practical plan to complete the Work within the Contract time requirement.
 - 1. A schedule extending beyond Contract time or less will not be acceptable.
 - 2. A schedule found unacceptable by DISTRICT shall be revised by CONTRACTOR and resubmitted.
- E. Construction schedule shall clearly indicate sequence of construction activities, grouped by applicable phase and sorted by areas, buildings, or facilities within phase, and shall specifically indicate:
 - 1. Start and completion of all Work items, their major components, and interim milestone completion dates, as determined by CONTRACTOR and DISTRICT.
 - 2. Activities for procurement, delivery, installation of equipment, materials, and other supplies, including:
 - a. Time for submittals, resubmittals, and reviews. Include decision dates for selection of finishes.
 - b. Time for manufactured products for the Work fabrication and delivery.
 - c. Interdependence of procurement and construction activities.

- d. As applicable, dates for testing, balancing equipment, and final inspection.
- F. Schedule shall be in sufficient detail to assure adequate planning and execution of the Work.
 1. Each task activity shall range in duration from a 1 workday minimum to a 15 workday maximum and shall be total of actual days required for completion. The activity duration shall not include consideration of weather impact on completion of that activity.
 2. Schedule shall be suitable, in judgment of DISTRICT, to allow monitoring and evaluation of progress in performance of the Work; it shall be calendar time-scaled.
 3. Activities shall include:
 - a. Description; what is to be accomplished and where.
 - b. Workday duration.
 - c. Scheduled activities shall indicate continuous flow, from left to right.
 4. CONTRACTOR shall setup up the schedule calendar to identify workdays per week and shifts per day worked, non-work days, weekends and holidays.
- G. Failure to include any element of Work required for performance of this Contract shall not excuse CONTRACTOR from completing Work required to comply with the Contract Documents, notwithstanding acceptance of Construction Schedule.
- H. Submittal of Construction Schedule shall be understood to be CONTRACTOR'S confirmation that the schedule meets requirements of the Contract Documents, and that the Work will be executed in sequence indicated in schedule.
- I. All Construction Schedule submittals shall be transmitted with a Letter of Transmittal and shall include 6 copies and one reproducible copy of a sufficient agreed upon size and the electronic file of the schedule in the format as required by DISTRICT.

REVIEWS, UPDATES, AND REVISIONS

- A. DISTRICT will review and return the initial submittal of CONTRACTOR'S Construction Schedule, with summary comments, within 7 calendar days. If revisions are required, CONTRACTOR shall resubmit Schedule within 7 calendar days following receipt of DISTRICT'S comments.
- B. After CONTRACTOR and DISTRICT agree to a base line schedule, it will become the Project Construction Schedule. No changes to Schedule will be allowed unless approved by DISTRICT.
- C. CONTRACTOR shall analyze and update the Project Construction Schedule:
 1. As part of monthly payment application, CONTRACTOR shall submit to and participate with DISTRICT in a schedule review to include:
 - a. Actual start dates for Work items started during report period.
 - b. The percent (%) complete on activities that have actual start dates.
 - c. Actual completion dates for Work items completed during report period.
 - d. Estimated remaining duration for Work items in progress, which will not exceed original duration for activity.
 - e. Estimated start dates for Work items scheduled to start during month following report period, if applicable.
 - f. Changes in duration of Work items.
 2. In case of a change to CONTRACTOR'S planned sequence of Work, CONTRACTOR shall include a narrative report with updated progress schedule which shall include, but not be limited to, a description of problem areas, current and anticipated delaying factors, and any proposed revisions for a recovery plan.
 3. All Change Orders affecting the schedule shall be clearly identified as separate and new activities integrated into the schedule at the appropriate time and in the appropriate sequence as reviewed and approved by DISTRICT.
 4. The Project Construction Schedule Review will not relieve CONTRACTOR of responsibility for accomplishing all Work in accordance with the Contract Documents.

- D. Updates: CONTRACTOR shall submit to DISTRICT, with each payment application, an up-to-date Project Construction Schedule to include following:
1. Work Item Report: Detailing Work items and dependencies as indicated on the Schedule.
 2. Separate listing of activities completed during reporting period.
 3. Separate listing of activities which are currently in progress, indicating their remaining duration and percentages completed.
 4. Separate listing of activities which are causing delay in Work progress.
 5. Narrative report to define problem areas, anticipated delays, and impact on the Project Construction Schedule. CONTRACTOR shall report corrective action taken, or proposed, and its effect, including effect of changes on schedules of separate contractors.
 6. Resolution of conflict between actual Work progress and schedule logic: when out-of-sequence activities develop in the Schedule because of actual construction progress, CONTRACTOR shall submit a revised schedule to conform to current job sequence and direction.
- E. If, according to current updated Project Construction Schedule, DISTRICT determines CONTRACTOR is behind the Substantial Completion date or any interim milestone completion dates, considering all time extensions to which CONTRACTOR is entitled, CONTRACTOR shall submit a revised recovery schedule, showing a workable plan and a narrative description to complete project on time. See Article 1.04, Paragraph C-2.
1. DISTRICT may withhold progress payments until a revised recovery schedule, acceptable to DISTRICT, is submitted by CONTRACTOR.
- F. Scheduling of change or extra Work orders is responsibility of CONTRACTOR.
1. CONTRACTOR shall revise the Project Construction Schedule to incorporate all activities involved in completing change orders or extra Work orders and submit it to DISTRICT for review.
- G. If DISTRICT finds CONTRACTOR is entitled to extension of any completion date, under provisions of the Contract, DISTRICT'S determination of total number of days of extension will be based upon an analysis of the current Project Construction Schedule, and upon data relevant to the extension.

- H. CONTRACTOR acknowledges and agrees that delays to non-critical activities will not be considered a basis for a time extension unless activities become critical. Non-critical activities are those activities which, when delayed, do not affect an interim or Substantial Completion date.
- I. Any claim for extension of time shall be made in writing to DISTRICT not more than 7 days after commencement of delay; otherwise, it shall be deemed waived for all purposes. CONTRACTOR shall provide an estimate of the probable effect of such a delay on progress of Work as part of claim.
- J. CONTRACTOR shall allow for inclement weather in the Proposed Baseline Schedule by incorporating an activity titled "Rain Day Impact Allowance" as the last activity prior to the Substantial Completion Milestone.

The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

The Contractor will only be allowed a time extension for unusually severe weather if it results in precipitation or other conditions which in the amount, frequency, or duration is in excess of the norm at the location and time of year in question as established by NOAA weather data. No less than 14 calendar days will be allotted for in the contractor's schedule for each winter weather period which is defined as the months, in aggregate of October, November, December, January, February and March. The weather days shall be shown on the schedule and if not used will become float for the Project's use. The Contractor will not be allowed a day-for-day weather delay when the contract is bid for construction during a period that normally includes inclement weather. A day-for-day extension will only be allowed for those days in excess of the norm. The Contractor is expected to work seven (7) days per week (if necessary, irrespective of inclement weather), to maintain access, and to protect the Work under construction from the effects of inclement weather.

If the weather is unusually severe in excess of the NOAA data norm and prevents the Contractor from beginning work at the usual daily starting time, or prevents the Contractor from proceeding with seventy-five (75%) of the normal labor and equipment force towards completion of the day's current controlling item on the accepted schedule for a period of at least five hours, and the crew is dismissed as a result thereof, the Architect will designate such time as unavoidable delay and grant one (1) calendar-day extension.

1.06 CONTRACTOR'S RESPONSIBILITY

- A. Nothing in these requirements shall be deemed to be a usurpation of CONTRACTOR'S authority and responsibility to plan and schedule Work as CONTRACTOR sees fit, subject to all other requirements of Contract Documents.
- B. CONTRACTOR shall provide at all times sufficient competent labor, materials, and equipment to properly carry on Work and to insure completion of each part in accordance with Construction Schedule and within time agreed.
- C. CONTRACTOR shall be responsible for ensuring that all submittals to the DISTRICT are accurate and consistent. Damage, including extra time and cost, caused by inaccuracies from CONTRACTOR will be compensated by CONTRACTOR.

1.07 SUSPENSION OF PAYMENTS

- A. Initial Submittal: If CONTRACTOR fails to comply with the specified requirements, DISTRICT reserves the right to engage an independent scheduling consultant to fulfill these requirements. Upon additional notice to CONTRACTOR, DISTRICT shall retain against CONTRACTOR all incurred costs for additional services.
- B. Update Submittals: DISTRICT has the right to withhold progress payments if CONTRACTOR fails to update and submit the Project Construction Schedule and reports as required by DISTRICT.

1.08 RECORD COPY

- A. Prior to the Contract Completion, CONTRACTOR shall submit the Project Construction Schedule showing the as-built sequence. The as-built schedule shall have all activities with actual start and end dates.

END OF EXHIBIT

53	Item 9 - General Conditions Amount	11.2%	\$ 1,070,000
54	<i>SUBTOTAL</i>		\$ 10,611,678
55	Item 3 - Bond Cost Amount	1.20%	\$ 127,340
56	Item 4 - Builder's Risk Amount	0.49%	\$ 51,840
57	Item 5 - General / Auto Liability Insurance Amount	0.29%	\$ 30,706
58	Item 6 - Worker's Compensation Amount	0.26%	\$ 27,333
59	<i>SUBTOTAL</i>		\$ 10,848,897
60	Item 2 - Overhead, Profit, and Fee Amount	4.75%	\$ 515,323
61	<i>SUBTOTAL</i>		\$ 11,364,219
62	Item 7 - Contractor's Contingency Amount	1.8%	\$ 200,000
63	Item 8 - E & O Contingency Amount	3.1%	\$ 350,000
	Allowances		
64	No. 1 - Marquee / Monument		\$ 50,000
65	No. 2 - Retaining Wall		\$ 20,000
66	No. 3 - Trespa Supports		\$ 20,000
67	No. 4 - Parking		\$ 16,000
68	No. 5 - Tree Trimming		\$ 3,500
69	No. 6 - Traffic Coating Upgrade		\$ 50,000
70	No. 7 - Storm Drainage		\$ 30,000
71	No. 8 - Site Guard Rails		\$ 20,000
72	Item 1 - Final GMP Amount		\$ 12,123,719

Master Budget Qualifications

- General**
- 1 A temporary jobsite office will be provided for the use of the inspector and the District. The trailer will consist of two (2) private offices, each with an exterior door and air conditioner. Each office will be furnished in accordance with Section 24 of the Construction Services Agreement.
 - 2 DJM will not be responsible for providing office supplies for the inspector or District.
 - 3 Coordination & shop drawing costs have been factored on CAD drawings being provided by the design team.
 - 4 Hazardous Material Abatement Consultant to be provided by the owner, not the General Contractor.
 - 5 The District's Contingency referenced in the Construction Services Agreement is NOT included in the Master Budget - Exhibit "B".
 - 6 Allowance and Contingency allocations / spending will be entitled to Contractor's Mark-Ups per Section 9 of the Construction Services Agreement.
-
- Div 2**
- 1 Survey of building and commercial photographer per spec. section 02221-3.01-B, C, & D not included since entire building is being demolished.
 - 2 Sewer line to be installed per P2.001, not C2.102. Decision based on sewer utility location on sheet A1.601 and the fact that no sewer manhole was observed in the field as is shown on C2.102. Therefore, manhole and sewer to be removed on sheet C2.102 will not be removed unless discovered in the overexcavation limits.
 - 3 Wood power pole North of the existing Math & Science building to be removed and not relocated per C2.001 and E2.000, not A2.201.
 - 4 Compacted fill mat under footings per soils report will be included only for footings up to 3'-0" wide.
 - 5 Certified Wildlife Biologist per note 24 on sheet C1.000 will be provided for one visit to confirm no nesting is taking place. Any additional costs for a Certified Wildlife Biologist are not included.
 - 6 Existing fence along West side of site will be removed and turned over to the owner per note 25 on A2.201. Fence posts to be torched/cut from footings and footings removed.
 - 7 \$20,000 was included for rerouting utilities per Pre-Bid RFI's 028 and 029.
 - 8 Irrigation main line and backflow were factored as being 2". Backfill was interpreted as being 3" of sand over piping, then native soil.
 - 9 Existing asphalt and concrete slabs assumed to be 4" thick.
-

Master Budget Qualifications

-
- Div 3**
- 1 3'-4" retaining wall North of fire lane not included in bid. (See Allowances).
 - 2 1st floor hallway concrete to be 5" concrete slab w/ #4 at 18" o.c. ea. way at center of slab over 4" sand without vapor barrier per sheets S3.101, S3.102, and detail 9/S9.001.
 - 3 Interface / tie-in to existing work not included, unless specifically detailed or noted.
-
- Div 5**
- 1 Per note #25 on sheet A2.201, the (E) wrought iron fence is to be removed and stored for reinstallation. As nothing is shown for the reinstallation of this fence, DJM will remove and turn over the fencing to the District, but will not be responsible for storage.
 - 2 Stairways will be installed as checker plate steel, not concrete filled pan stairs.
-
- Div 6**
- 1 Where sill plate connects to foundation walls, DJM includes a sill gasket and flashing as noted in specification section 06112. No drypack was included as a component of a typical sill anchorage detail, reference 23 & 24/A9.100 and S9.001.
 - 2 Equipment curbs at roof are to be prefabricated sheet metal curbs per 1 & 4/M9.001. As such, bid does not include wood framed curbs shown on 13/A9.110.
-
- Div 7**
- 1 Breathable Underlayment is only included under phenolic wall panels
 - 2 Steel support structure at stairways is assumed to be sufficient for the installation and connection of the Phenolic Wall Panels. (See allowances)
 - 3 Intumescent fireproofing included on steel members specifically note within Note 2 / A3.103.
 - 4 As specified in 07810 Traffic Coatings, the Neogard product was included in the bid. However, due to light weight concrete substrate a Dex-O-Tex product is recommended as an upgrade. (See allowances)
-
- Div 8**
- 1 Baked enamel or powder coating of steel doors and frames not included. Shop priming and field finish painting is included.
-
- Div 14**
- 1 Regarding hydraulic elevators, it is assumed that a 2500 lb. capacity will not meet the 2007 CBC gurney requirements and that this is acceptable.
-
- Div 15**
- 1 Bid includes piping for area / deck drains not shown on Plumbing Drawings. Design of piping layout and P.O.C is pending from Design Team. (See Allowances)
 - 2 Equipment curbs at roof are to be prefabricated sheet metal curbs per 1 & 4/M9.001.
-
- Div 16**
- 1 Future conduits being routed to North West of Building M per sheet E2.101 to be routed and have an end location per E2.101 of the DSA Bid Set and not Addendum B.
 - 2 As indicated on Note 3 / E2.100, a 1000 KVA transformer will be existing for primary power service to new building. Site observation noted that existing transformer is only 750 KVA.

EXHIBIT "C"

DVBE REQUIREMENTS

* CERTIFICATION-PARTICIPATION OF
DISABLED VETERAN BUSINESS ENTERPRISES

In accordance with Education Code Section 17076.11, the District has a participation goal for Disabled Veteran Business Enterprises of at least three percent (3%) per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization of school buildings and expended each year by the District. At the time of execution of the contract, the Contractor will provide a statement to the District of anticipated participation of Disabled Veteran Business Enterprises in the contract. Prior to, and as a condition precedent for final payment under the contract, the Contractor will provide appropriate documentation to the District identifying the amount paid to Disabled Veteran Business Enterprises in conjunction with the contract, so that the District can assess its success at meeting this goal.

The Contractor may provide the anticipated participation of Disabled Veteran Business Enterprises in terms of percentage of its total contract or the dollar amount anticipated to be paid to Disabled Veteran Business Enterprises or by providing the names of the Disabled Veteran Business Enterprises that will participate in the contract. If there is a discrepancy between the anticipated goals and the actual DVBE participation at completion of the contract or a failure to meet the anticipated goal or dollar amounts, the District will require the Contractor to provide, at the completion of the contract, a detailed statement of the reason(s) for the discrepancy or failure to meet the anticipated goals or dollar amounts.

I certify that I have read the above and will comply with the anticipated participation of Disabled Veteran Business Enterprises in this contract.


Signature

Jason Mosier - Project Executive
Print Name/Title

Anchorage, CA
Address

DJM Construction
Company

714-399-3640
Telephone

714-399-3645
Fax

jmosier@djmconstruction.com
Email

EXHIBIT "D"

Payment Bond

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the _____ District (hereinafter designated as "Public Entity"), by action taken or a resolution passed _____, 20____, has awarded to _____ hereinafter designated as the "Principal," a contract for the work described as follows: _____ the "Project"); and

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;

NOW THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto the Public Entity in the penal sum of Dollars (\$ _____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay (1) any of the persons named in Section 3181 of the California Civil Code, (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or (3) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor the surety or sureties will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the Public Entity in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or Public Entity and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

Principal

By _____

[Attach required acknowledgments]

Surety By _____

Attorney in Fact

EXHIBIT "E"

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the _____ School District by action taken or a resolution passed , 20__, has awarded to _____ (the "Contractor"), hereinafter designated as the "Principal," a contract for the work described as follows:

(the "Project"); and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract to the _____ School District (referred to herein as the "Public Entity");

NOW THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto the Public Entity in the penal sum of _____ Dollars (\$ _____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform, the covenants, conditions, and agreements in the said contract and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Public Entity, its officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work, or to the specifications.

In the event suit is brought upon this bond by the District and judgment is recovered, the Surety shall pay all litigation expenses incurred by the District in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the day of _____, 20__.

Principal
[Attach required acknowledgments] By _____
Surety
By _____ Attorney in Fact

EXHIBIT "F"

CONTRACTOR FINGERPRINTING REQUIREMENTS

CONTRACTOR CERTIFICATION

With respect to the Contract dated 10/7 2010 by and between the Colton Jain & Unifred School District ("District") and DSM Construction ("Contractor") Contractor hereby certifies to the District's governing board that it ~~has completed~~ ^{will complete} the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District's pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

Contractor's Representative

[Signature]

Date:

9/17/10

CONTRACTOR EXEMPTION

Pursuant to Education Code sections 45125.1 and 45125.2, the _____ School District ("District") as determined that _____ ("Contractor") is exempt from the criminal background check certification requirements for the contract dated _____ 20____ by and between the District and Contractor ("Contract") because:

- The Contractor's employees will have limited contact with District students during the course of the Contract;
- Emergency or exceptional circumstances exist; or
- With respect to Contractors constructing, reconstructing, rehabilitating or repairing a school facility, as provided in Section 45125.2, the Contractor has agreed to ensure the safety of pupils at the school facility by the following method(s) specified in Section 45125.2:

School District Official: _____

Date: _____

EXHIBIT "F" (CONT.)

SUBCONTRACTOR FINGERPRINTING REQUIREMENTS

SUBCONTRACTOR'S CERTIFICATION

The _____ School District ("District" entered into a contract for services with _____ ("Contractor" on or about _____, 20____ ("Contract". This certification is submitted by _____, a subcontractor to the Contractor for purposes of that Contract ("Subcontractor". Subcontractor hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

Subcontractor's Representative: _____
Date: _____

SUBCONTRACTOR'S EXEMPTION

The _____ School District ("District" entered into a contract for services with _____ ("Contractor" on or about _____, 20____ ("Contract". Pursuant to Education Code sections 45125.1 and 45125.2, the District has determined that _____, a subcontractor to the Contractor for purposes of that Contract ("Subcontractor") is exempt from the criminal background check certification requirements for the Contract because:

- The Subcontractor's employees will have limited contact with District students during the course of the Contract;
- Emergency or exceptional circumstances exist; or

With respect to Contractors constructing, reconstructing, rehabilitating or repairing a school facility, as provided in Section 45125.2, the Contractor and/or Subcontractor have agreed to ensure the safety of pupils at the school facility by the following method(s) specified in Section 45125.2: _____

School District Official: _____
Date _____

EXHIBIT "G"

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

(b) By securing from the Director of Industrial Relations a certificate of consent to self insure, either as an individual employee or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Construction Services Agreement.

Contractor DJM Construction Co., Inc.
Title Jason Mosier - Project Executive
Date 9/17/10

(In accordance with article 5 (commencing at section 1860), chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Construction Services Agreement.)

EXHIBIT "H"
DRUG-FREE WORKPLACE CERTIFICATION

EXHIBIT H -1-
PDS\291312.1

EXHIBIT 'P'
ASBESTOS-FREE MATERIALS CERTIFICATION

COLTON HIGH SCHOOL MATH AND SCIENCE BUILDING PROJECT

SITE LEASE

Between

COLTON JOINT UNIFIED SCHOOL DISTRICT

and

DJM Construction Co, Inc.

Dated as of October 7, 2010

COLTON HIGH SCHOOL MATH AND SCIENCE BUILDINGS PROJECT

SITE LEASE

This SITE LEASE is dated as of October 7, 2010 and is by and between the Colton Joint Unified School District, a school district duly organized and existing under the laws of the State of California (the "District") as lessor and DJM Construction Co, Inc, a Corporation organized and operating under the laws of the State of California (the "Lessee").

WHEREAS, the District desires to provide for the construction of certain public improvements at the Bloomington High School site (the "Project"); and

WHEREAS, the District's governing board has determined that it is in the best interests of the District and for the common benefit of the citizens it serves to construct the Project by leasing to the Lessee land and existing buildings at the Bloomington High School site at which the public improvements are to be constructed, as more specifically described in Exhibit "A," (the "Site"), and subleasing from the Lessee the Site and the Project under a Sublease Agreement (the "Sublease") attached hereto as Exhibit "B" and by this reference incorporated herein; and

WHEREAS, the District and the Lessee have entered into a Construction Services Agreement ("Construction Services Agreement"), attached hereto as Exhibit "C" and by this reference incorporated herein, to ensure that the Project will meet the District's expectations; and

WHEREAS, the District is authorized under Section 17406 of the California Education Code to lease the Site and its governing body has duly authorized the execution of this Site Lease; and

WHEREAS, the Lessee is authorized to lease the Site and to construct the Project on the Site, and has duly authorized the execution and delivery of the Sublease and this Site Lease.

NOW THEREFORE, in consideration of the covenants hereinafter set forth, District and Lessee agree as follows:

SECTION 1. DEFINITIONS. Unless the context otherwise requires, the terms defined in this section shall, for all purposes of this lease, have the meanings as herein specified.

- A. **"Construction Services Agreement"** means the Construction Services Agreement for construction of improvements on the Bloomington High School site by and between the District and the Lessee dated of even date herewith.
- B. **"Contract Documents"** means the Construction Services Agreement, the Sublease and this Site Lease.
- C. **"District"** means the Colton Joint Unified School District, a school district duly organized and existing under the laws of the State of California.
- D. **"Effective Date"** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with Section 5 of the Construction Services Agreement.
- E. **"Lessee"** shall mean DJM Construction Co, Inc and its successors and assigns.
- F. **"Project"** means the improvements and equipment to be constructed and installed by the Lessee, as more particularly described in Exhibit "A" of the Sublease hereto.

- G. **"Site"** means that certain parcel of real property and improvements thereon (if any) more particularly described in Exhibit "A" attached hereto.
- H. **"Site Lease"** means this Site Lease together with any duly authorized and executed amendment hereto under which the District leases the Site to the Lessee.
- I. **"Sublease"** means the Sublease dated of even date herewith, by and between the District and the Lessee together with any duly authorized and executed amendment thereto.
- J. **"Sublease Payment"** means any payment required to be made by the District pursuant to Section 7 of the Sublease.
- K. **"Sublease Prepayment"** means any payment required to be made by the District pursuant to Section 26 of the Sublease.
- L. **"Term of this Lease" or "Term"** means the time during which this Lease is in effect, as provided for in Section 3 of this Lease.

SECTION 2. SITE LEASE.

The District leases to the Lessee, and the Lessee leases from the District, on the terms and conditions set forth herein, the Site situated in the City of Colton, County of San Bernardino, State of California, more specifically described in Exhibit "A" attached hereto, including any real property improvements now or hereafter affixed thereto.

SECTION 3. TERM.

The term of this Site Lease shall commence as of the Effective Date. The term of this Site Lease shall terminate as of the last day of the Sublease, unless sooner terminated as provided thereby. If on the scheduled date of termination of this Site Lease, Sublease Payments shall have therefore been abated at any time and for any reason, then the term of this Site Lease shall be extended until the date upon which all such Sublease Payments shall be fully paid. Without limiting any other term or provision of the Sublease Agreement or Construction Services Agreement between the parties, at the termination of this Lease, natural or otherwise, title to the Site, and any improvements constructed thereon by the Lessee, shall vest in the District in accordance with Education Code section 17406.

SECTION 4. REPRESENTATIONS, COVENANTS, AND WARRANTIES OF THE DISTRICT. The District represents, covenants and warrants to the Lessee that:

- A. The District has good and merchantable fee title to the Site and has authority to enter into and perform its obligations under this Site Lease;
- B. There are no liens on the Site other than Permitted Encumbrances;
- C. All taxes, assessments or impositions of any kind with respect to the Site, if applicable, except current taxes, have been paid in full;
- D. The Site is properly zoned for the intended purpose and utilization of the Site;
- E. The District is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to the Site;

- F. There is no litigation of any kind currently pending or threatened regarding the Site or the District's use of the Site for the purposes contemplated by this Site Lease;
- G. To the best of the District's knowledge, except for that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed:
- (1) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any State or Federal Law relating thereto (hereinafter collectively called "Environmental Regulations", and also including, but not limited to, urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the owner of the Site or the Lessee or the Lessee's subcontractors to any damages, penalties or liabilities under any applicable Environmental Regulation (hereinafter collectively called "Hazardous Substances", are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Site;
 - (2) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Site into the environment;
 - (3) the Site has not been used as or for a mine, a landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station;
 - (4) no underground storage tank is now located in the Site or has previously been located therein;
 - (5) no violation of any Environmental Regulation now exists relating to the Site, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances;
 - (6) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (1) above;
 - (7) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under over or from the Site;
 - (8) the Site is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and
 - (9) the Site is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

- H. To the extent permitted by law, the District shall not abandon the Site for the use for which it is currently required by the District and further, shall not seek to substitute or acquire property to be used as a substitute for the uses for which the Site and Project are to be maintained under the Site Lease.
- I. The term "Permitted Encumbrances" as used herein shall mean, as of any particular time:
 - (1) liens for general ad valorem taxes and assessments, if any, not then delinquent;
 - (2) this Site Lease; the Sublease; any right or claim of any mechanic, laborer, materialman, supplier, or vendor, if applicable, not filed or perfected in the manner prescribed by law; easements, rights of way, mineral rights, drilling rights, and other rights, reservations, covenants, conditions, or restrictions which exist of record as of the date of this Site Lease and which will not materially impair the use of the Site;
 - (3) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions, or restrictions established following the date of recordation of this Site Lease and to which the Lessee and the District consent in writing which will not impair or impede the operation of the Site.

SECTION 5. **REPRESENTATIONS AND WARRANTIES OF THE LESSEE.** The Lessee represents and warrants to the District that:

- A. The Lessee is duly organized, validly existing and in good standing under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. The Lessee has full power, authority and legal right to enter into and perform its obligations under this Site Lease, and the execution, delivery and performance of this Site Lease has been duly authorized by all necessary corporate actions on the part of the Lessee and does not require any further approvals or consents;
- C. Execution, delivery and performance of this Site Lease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Lessee is a party or by which it or its property is bound;
- D. There is no pending or, to the best knowledge of the Lessee, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of the Lessee to perform its obligations under this Site Lease; and

SECTION 6. **RENTAL.**

The Lessee shall pay to the District as and for advance rental hereunder \$1.00 per year or part thereof, or the aggregate sum of One Dollars [\$1.00 x number of years of lease] (\$1.00), on or before the date of commencement of the term of this Site Lease. The Lessee shall have no obligation to make rental payments hereunder in the event the Effective Date of this Site Lease does not occur as a result of the District's inability to issue a Notice to Proceed for the Project pursuant to the provisions of Section 5 of the Construction Services Agreement.

SECTION 7. **PURPOSE.**

The Lessee shall use the Site solely for the purpose of constructing the Project thereon and for subleasing the Site and the Project to the District; provided, that upon the occurrence of an Event of Default by the District under the Sublease, the Lessee may exercise the remedies provided for in the Construction Services Agreement or the Sublease.

SECTION 8. **TERMINATION.** The Lessee agrees, upon termination of this Site Lease:

- A. To quit and surrender the Site in the same good order and condition as it was in at the time of commencement of the term hereunder, reasonable wear and tear excepted;
- B. To release and reconvey to the District any liens and encumbrances created or caused by the Lessee; and
- C. That any permanent improvements and structures existing upon the Site at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the District.

Notwithstanding the District's foregoing rights in the event of termination, the Lessee shall retain the right to full compensation for all services rendered prior to the termination, including all rights they have under the Construction Services Agreement and the Sublease as well as all recourse provided by California law including common law, for the value of the work performed on the Site and/or the Project.

In the event the Construction Services Agreement is terminated pursuant to the provisions therein, this Site Lease shall immediately terminate.

SECTION 9. **QUIET ENJOYMENT.**

The District covenants and agrees that it will not take any action to prevent the Lessee's quiet enjoyment of the Site during the term hereof; and, that in the event District's fee title to the Site is ever challenged so as to interfere with the Lessee's right to occupy, use and enjoy the Site, the District will use all governmental powers at its disposal, including the power of eminent domain, to obtain unencumbered fee title to the Site and to defend the Lessee's right to occupy, use, and enjoy the Site. The District, however, retains the right, throughout the Site Lease Term, to use the Site for District purposes, pursuant to the terms of the Sublease.

SECTION 10. **NO LIENS.**

The District shall not mortgage, sell, assign, transfer or convey the Site or any part thereof to any person during the term of this Site Lease, without the written consent of the Lessee. Nothing herein shall preclude the District from granting utility easements across the Site to facilitate the use and operation of the Project for which it is intended.

SECTION 11. **RIGHT OF ENTRY.**

The District reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof, but in doing so shall not interfere with the Lessee's operations on the Project.

SECTION 12. **ASSIGNMENT AND SUBLEASING.**

The Lessee will not assign or otherwise dispose of or encumber the Site or this Site Lease without the written consent of the District.

SECTION 13. **NO WASTE.**

The Lessee agrees that at all times that it is in possession of the Site it will not commit suffer or permit any waste on the Site, and it will not willfully or knowingly use or permit the use of the Site for any illegal act or purpose.

SECTION 14. DEFAULT.

In the event the Lessee shall be in default in the performance of any obligation on its part to be performed under the terms of the Construction Services Agreement and this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Lessee, the District may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Sublease shall be deemed to occur as a result thereof.

SECTION 15. EMINENT DOMAIN.

In the event the whole or any part of the Site or the improvements thereon, including but not limited to the Project, is taken by eminent domain, the financial interest of the Lessee shall be recognized and is hereby determined to be the amount of all Sublease Payments then due or past due, the next succeeding Sublease Payment and the purchase option price as set forth in Section 26 of the Sublease less any unearned interest as of the date the Lessee receives payment in full. The balance of the award in such eminent domain action, if any, shall be paid to the District.

SECTION 16. TAXES.

The terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

SECTION 17. INTENTIONALLY DELETED.

SECTION 18. PARTIAL INVALIDITY.

If any one or more of the terms, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 19. NOTICES.

Any notices or filings required to be given or made under this Site Lease shall be served, given or made in writing upon the District or the Lessee, as the case may be, by personal delivery or registered mail to the respective addresses given below. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by telex, telegram, or fax followed by regular mail, addressed as follows:

If to Lessee: DJM Construction Co, Inc
1540 S. Lewis St.
Anaheim, CA 92805
Attn: David J Morales

If to District: Colton Joint Unified School District
851 S. Mt. Vernon

Colton, CA 92324
Attn: Jaime Ayala, Assistant Supt. Business Services

With a Copy to: Atkinson, Andelson, Loya, Ruud & Romo
12800 Center Court Drive, Suite 300
Cerritos, CA 90703
Fax: 562-653-3333
Attn: Lindsay A. Thorson, Esq.

SECTION 20. **BINDING EFFECT.**

This Site Lease shall inure to the benefit of and shall be binding upon the District, the Lessee and its respective successors in interest and assigns.

SECTION 21. **AMENDMENTS AND MODIFICATIONS.**

This Site Lease shall not be effectively amended, changed, modified, altered or terminated without the written agreement of the District and the Lessee.

SECTION 22. **EXECUTION IN COUNTERPARTS.**

This Site Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 23. **LAWS, VENUE AND ATTORNEYS' FEES.**

The terms and provisions of this Site Lease shall be construed in accordance with the laws of the State of California. If a claim related to construction of the Project is made hereunder, the provisions of Section 34 of the Construction Services Agreement between the Parties shall control. If any action is brought in a court of law to enforce any term of this Site Lease, the action shall be brought in a state court situated in the County of Los Angeles, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

SECTION 24. **INTEGRATION/MODIFICATION.**

This Site Lease represents the entire understanding of the District and Lessee as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein and shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

SECTION 25. **HEADINGS.**

The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Site Lease.

SECTION 26. **TIME.**

Time is of the essence in this Site Lease and each and all of its provisions.

SECTION 27. NO THIRD PARTY BENEFIT.

This Site Lease is by and between the parties named herein, and no third party shall be benefited hereby. This Site Lease may not be enforced by anyone other than a party hereto or a successor to such party who has acquired his/her/its interest in a way permitted by the above provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Site Lease by their authorized officers as of the day and year first written above.

**COLTON JOINT UNIFIED SCHOOL DISTRICT
"DISTRICT"**

**DJM Construction Co, Inc
"LESSEE"**



BY: Jaime R. Ayala, Assistant Superintendent

BY: David J Morales President

EXHIBIT "A"
DESCRIPTION OF SITE

Property Description: Colton High School, a 42 acre site. A.P.N. 162-071-01; 162-073-01 through 09; 162-261-01 & 02; 162-262-01 through 03.

Property Address: 777 W. Valley Blvd.
Colton, CA 92324

EXHIBIT "B"

SUBLEASE

UNDER SEPARATE COVER

EXHIBIT "C"
CONSTRUCTION SERVICES AGREEMENT

UNDER SEPARATE COVER

COLTON MATH AND SCIENCE BUILDING PROJECT
SUBLEASE AGREEMENT

Between

COLTON JOINT UNIFIED SCHOOL DISTRICT

and

DJM CONSTRUCTION CO, INC

Dated as of October 7, 2010

COLTON MATH AND SCIENCE BUILDING PROJECT

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT ("sublease") is dated as of October 7, 2010 and is by and between the Colton Joint Unified School District, a school district duly organized and existing under the laws of the State of California ("District"), and DJM Construction Co., Inc, a corporation organized and operating under the laws of the State of California ("Lessor").

RECITALS:

WHEREAS, pursuant to Section 17400 et seq. of the Education Code, the District may enter into leases and agreements relating to real property and buildings used by the District; and

WHEREAS, the District deems it essential for its own governmental purpose, to finance the construction and installation of certain improvements described in Exhibit "A" attached hereto (the "Project") and situated on the Colton High School site described in Exhibit "B" attached hereto (the "Site"); and

WHEREAS, pursuant to Section 17406 of the Education Code, the District is leasing the Site to Lessor under a lease agreement dated the date hereof (the "Site Lease") attached hereto as Exhibit "C" in consideration of Lessor leasing and subleasing the Project and the Site to the District pursuant to the terms of this Sublease; and

WHEREAS, the District owns the Site and pursuant to that certain Construction Services Agreement entered into by and between the District and Lessor of even date herewith (the "Construction Services Agreement") attached hereto as Exhibit "D," has prepared and adopted plans and specifications for the completion of the Project which have been approved pursuant to law as required by Section 17402 of the Education Code; and

WHEREAS the District and Lessor agree to mutually cooperate now or hereafter, to the extent possible, in order to sustain the intent of this Sublease and the bargain of both parties hereto, and to provide Sublease Payments to be made on the dates and in the amount set forth herein.

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the District and Lessor parties hereto agree as follows:

SECTION 1. **DEFINITIONS.** Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Sublease, have the meanings as herein specified.

- A. **"Certificate of Acceptance and Notice of Completion"** mean those certificates signed by a District Representative to the effect that the Project has been completed.
- B. **"Construction Costs"** means any and all costs incurred by the Lessor with respect to the construction and equipping, as the case may be, of the Project, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, contractors' and developers' overhead and supervisors' fees and costs directly allocable to the Project, all costs and expenses including any taxes or insurance premiums paid by the Lessor with respect to the Property, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, the District or other entity for expenditures made, with the approval of the District, for the Project). The term "Construction Costs" includes all Contractor's costs associated with preparing or generating additional copies of any Construction Documents, as defined below, related to or required for the Project, including

preparation or generation of additional plans and specifications for Contractor's subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.

- C. **"Construction Services Agreement"** means the Construction Services Agreement for construction of improvements on the Bloomington High School site by and between the District and the Lessor of even date herewith.
- D. **"Contract Documents"** means the Construction Services Agreement, this Sublease and the Site Lease.
- E. **"District"** means the Colton Joint Unified School District, a school district duly organized and existing under the laws of the State of California.
- F. **"Effective Date"** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with Section 5 of the Construction Services Agreement.
- G. **"Event of Default"** means one or more events of default as defined in Section 21 of this Sublease.
- H. **"Guaranteed Maximum Price" or "GMP"** means the Guaranteed Maximum Price established pursuant to Section 4 of the Construction Services Agreement.
- I. **"Lessor"** shall mean DJM Construction Co, Inc and its successors and assigns.
- J. **"Prepayment Price"** means the price to be paid by the District to exercise its option to purchase the Site and the Project prior to the natural termination of this Sublease, in accordance with the provisions of Section 26 herein.
- K. **"Project"** means the improvements and equipment to be constructed and installed by the Lessor, as more particularly described in Exhibit "A" attached hereto.
- L. **"Site"** means that certain parcel of real property and improvements thereon (if any) more particularly described in Exhibit "B" attached hereto.
- M. **"Site Lease"** means the Site Lease of even date herewith, by and between the District and the Lessor as set forth in Exhibit "C" attached hereto, together with any duly authorized and executed amendment thereto under which the District leases the Site to the Lessor.
- N. **"Sublease"** means this Sublease together with any duly authorized and executed amendment hereto.
- O. **"Sublease Payment"** means any payment required to be made by the District pursuant to Section 7 of this Sublease.
- P. **"Sublease Prepayment"** means any payment required to be made by the District pursuant to Section 26 of this Sublease.
- Q. **"Term of this Sublease" or "Term"** means the time during which this Sublease is in effect, as provided for in Section 3 of this Sublease.

SECTION 2. SUBLEASE.

Lessor hereby leases and subleases to District, and District hereby leases and subleases from Lessor the Project and the Site, including any real property improvements now or hereafter affixed thereto in accordance with the provisions herein for the full term of this Sublease. The leasing by the Lessor to the District of the Site shall not effect or result in a merger of the District's leasehold estate pursuant to this Sublease and its fee estate as lessor under the Site Lease, and the Lessor shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the term thereof and the term of this Sublease.

SECTION 3. TERM OF THE SUBLEASE.

The terms and conditions of this Sublease shall become effective as of the Effective Date. The term of the Sublease shall terminate upon the completion of the Project and payment of the last Sublease Payment, unless sooner terminated as hereinafter provided.

- A. Termination of Term. Except as otherwise provided, the Term of this Sublease shall terminate upon the earliest of any of the following events:
- (1) An Event of Default and the Lessor's election to terminate this Sublease pursuant to the provisions of Sections 21 and 22, hereof;
 - (2) The arrival of the last day of the Term of this Sublease and payment of all Sublease Payments hereunder; or
 - (3) The exercise of the District's option under Section 26 hereof.

SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DISTRICT. The District represents and warrants to Lessor that:

- A. District is a political subdivision, duly organized and existing under the Constitution and laws of the State of California with authority to enter into this Sublease and to perform all of its obligations hereunder;
- B. District's governing body has duly authorized the execution and delivery of this Sublease and further represents and warrants that all requirements have been met and procedures followed to ensure its enforceability;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which District is a party by which it or its property is bound;
- D. There is no pending or, to the knowledge of District, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of District to perform its obligations under this Sublease;
- E. The Project and the Site are essential to District in the performance of its governmental functions and their estimated useful life to the District exceeds the term of this Sublease;
- F. District shall take such action as may be necessary to include all Sublease Payments in its annual budget and annually to appropriate an amount necessary to make such Sublease Payments;
- G. District shall not abandon the Site for the use for which it is currently required by District and, to the extent permitted by law, District shall not seek to substitute or acquire property to be used as a substitute for the uses for which the site is maintained under the Sublease; and

- H. District shall not allow any Hazardous Substances (as such term is defined in the Site Lease and limited by that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed) to be used or stored on, under or about the Site.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF LESSOR. Lessor represent and warrant to District that:

- A. Lessor is duly organized, validly existing and in good standing as a corporation under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. Lessor has full power, authority and legal right to enter into and perform its obligations under this Sublease, and the execution, delivery and performance of this Sublease has been duly authorized by all necessary corporate actions on the part of Lessor and does not require any further approvals or consents;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Lessor is a party by which they or their property is bound;
- D. There is no pending or, to the knowledge of Lessor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Lessor to perform their obligations under this Sublease; and
- E. Lessor will not mortgage or encumber the Site or the Sublease or assign this Sublease or their rights to receive Sublease Payments hereunder, except as permitted herein.

SECTION 6. CONSTRUCTION/ACQUISITION.

- A. District has entered into a Construction Services Agreement and a Site Lease with Lessor in order to acquire and construct the Project. The cost of the construction and installation of the Project is determined by the GMP as set forth in Section 4 of the Construction Services Agreement.
- B. In order to ensure that moneys sufficient to pay all costs will be available for this purpose when required, District shall maintain on deposit, and shall annually appropriate funds sufficient to make all Sublease Payments which become due to Lessor under this Sublease Agreement.

SECTION 7. SUBLEASE PAYMENTS.

- A. District shall pay Lessor lease payments (the "Sublease Payments") as provided by the Construction Services Agreement. In no event shall the sum of the Sublease Payments due hereunder exceed the GMP as it may be revised by the District from time to time in accordance with the provisions set forth in the Construction Services Agreement. The Sublease Payments shall be adjusted to reflect any adjustment to the GMP agreed to in writing by the District and the Contractor. The District shall have no obligation to make Sublease payments hereunder in the event the Effective Date of this Sublease does not occur as a result of District's inability to issue a Notice to Proceed for the Project pursuant to the provisions of Section 5 of the Construction Services Agreement.
- B. Should the District fail to pay any part of the Sublease Payments not otherwise excused pursuant to this Section or Section 9 hereof, or otherwise questioned or challenged by the District pursuant to the Construction Services Agreement, within fifteen (15) business days from the due date thereof, the District shall, upon Lessor's written request, pay interest on such delinquent payment from the date said payment was due until paid at the rate of twelve percent (12%) per annum or the maximum legal rate, whichever is less. The obligation of the District to pay Sublease

Payments hereunder shall constitute a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District.

- C. In the event that the District exercises its option under Section 26(B) below, and purchases the Project by paying the Prepayment Price, the District's obligations under this Lease, including but not limited to the District's obligation to pay Sublease Payments under this Section, shall thereupon cease and terminate.
- D. Except as specifically provided in this Section and in Section 9 hereof or as otherwise provided by law, the obligation of the District to make Sublease Payments when due and payable hereunder will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, abatement or recoupment for any reason whatsoever.

SECTION 8. FAIR RENTAL VALUE.

Sublease Payments shall be paid by District in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Project and the Site during the lease. The parties hereto have agreed and determined that such total rental is not in excess of the fair rental value of the Project and the Site. In making such determination, consideration has been given to the fair market value of the Project and the Site, other obligations of the parties under this Sublease (including but not limited to costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Project and the Site and the benefits therefrom which will accrue to the District and the general public, the ability of the District to make additions, modifications and improvements to the Project and the Site which are not inconsistent with the Construction Services Agreement (Exhibit "D" hereof) and which do not interfere with the Lessor's work on the Project and the Site.

SECTION 9. SUBLEASE ABATEMENT.

In addition to delay of Sublease Payments provided in Section 7, above, Sublease Payments due hereunder with respect to the Project and the Site shall be subject to abatement prior to the commencement of the use of the Project and the Site by the District or during any period in which, by reason of material damage to or destruction of the Project or the Site, there is substantial interference with the use and right of possession by the District of the Project and the Site or any substantial portion thereof, as evidenced by a suspension of construction activities by lessor under the Construction Services Agreement. For each potential incident of substantial interference, decisions to be made on i) whether or not abatement shall apply; ii) the date upon which abatement shall commence; iii) the applicable portion of Sublease Payments to be abated and; iv) the concluding date of the particular abatement shall all be subject to determinations by the District. The amount of Sublease abatement shall be such that the Sublease Payments paid by the District during the period of Project and Site restoration do not exceed the fair rental value of the usable portions of the Project and Site. In the event of any damage or destruction to the Project or the Site, this Sublease shall continue in full force and effect.

SECTION 10. USE OF SITE AND PROJECT.

During the term of this Sublease, Lessor shall provide the District with quiet use and enjoyment of the Site without suit, or hindrance from Lessor or their assigns, provided District is in compliance with its duties under this Sublease. District will not use, operate or maintain the Site or Project improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Sublease. District shall provide all permits and licenses, if any, necessary for the operation of the Project and Site. In addition, the District agrees to comply in all respects

(including, without limitation, with respect to the time, maintenance and operation of the Project and Site) with laws of all jurisdictions in which its operations involving the Project and Site may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Site or the Project; provided, however, that District may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the estate of Lessor in and to the Site or the Project or its interest or rights under this Sublease. Upon substantial completion of the Project or severable portions hereof, the Lessor shall provide the District with quiet use and enjoyment of the Site without suit or hindrance from the Lessor or its assigns, subject to reasonable interference from ongoing construction operations on any remaining portion of the Site under construction by the Lessor.

SECTION 11. LESSOR'S INSPECTION/ACCESS TO THE SITE.

District agrees that Lessor and any of Lessor's representatives shall have the right at all reasonable times to enter upon the Site or any portion thereof to construct and improve the Project, to examine and inspect the Site and the Project and to exercise its remedies pursuant to the section in this Sublease entitled "Remedies on Default." District further agrees that Lessor and any of Lessor's representatives shall have such rights of access to the Site as may be reasonably necessary to cause the proper maintenance of the Site and the Project in the event of failure by District to perform its obligations hereunder.

SECTION 12. PROJECT ACCEPTANCE.

District shall acknowledge final inspection and completion of the Project by executing a Certificate of Acceptance and recording a Notice of Completion. The validity of this Sublease will not be affected by any delay in or failure of completion of the Project.

SECTION 13. ALTERATIONS AND ATTACHMENTS. Title to all permanent additions and improvements that are made to the Project shall vest as provided for in Section 25 hereof. Separately identifiable attachments added to the Project by the District shall remain the property of the District.

SECTION 14. INTENTIONALLY DELETED.

SECTION 15. UTILITIES.

Unless otherwise so specified in the Construction Services Agreement, District shall, in its own name, contract for and pay the expenses of all utility services required for the Project once constructed, such utilities, including but not limited to, all, electrical, gas, water, and sewer systems. The District shall be liable for payment as well as maintenance of all utility services received.

SECTION 16. INTENTIONALLY DELETED.

SECTION 17. INTENTIONALLY DELETED.

SECTION 18. INTENTIONALLY DELETED.

SECTION 19. TAXES.

District shall keep the Project and the Site free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, state, and federal) if applicable, which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession, or use of the Project and the Site, excluding, however, all taxes on or measured by Lessor's income.

SECTION 20. INTENTIONALLY DELETED.

SECTION 21. EVENTS OF DEFAULT. The term "Event of Default," as used in this Sublease means the occurrence of any one or more of the following events:

- A. The District fails to make any unexcused Sublease Payment (or any other payment) within fifteen (15) days after the due date thereof or the District fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure to either make the payment or perform the covenant, condition or agreement is not cured within ten (10) days after written notice thereof by Lessor;
- B. The Lessor discovers that any statement, representation or warrant made by the District in this Sublease, or in any document ever delivered by the District pursuant hereto or in connection herewith is misleading or erroneous in any material respect;
- C. The District becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of the District or of all or a substantial part of its assets, or a petition for relief is filed by the District under federal bankruptcy, insolvency or similar laws.

SECTION 22. REMEDIES ON DEFAULT. Upon the happening of any Event of Default, Lessor may exercise remedies set forth below; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Sublease Payments or otherwise declare any Sublease Payments not then in default to be immediately due and payable. The District shall continue to remain liable for the payment of Sublease Payments and damages for breach of this Sublease and the performance of all conditions herein such Sublease Payments and damages shall be payable to Lessor at the time and in the manner set forth in subsections (A) and (B) of this Section:

- A. In the event that Lessor does not elect to terminate this Sublease pursuant to subsection (B) below, the District agrees to and shall remain liable for the payment of Sublease Payments and the performance of all conditions herein and shall reimburse Lessor for the full amount of the Sublease Payments to the end of the Sublease term.
- B. In the event of termination of this Sublease by Lessor at its option and in the manner hereinafter provided on account of default by the District, the District shall pay Lessor Sublease Payments then owing for past Sublease Payments due and not paid, compensation on the basis of time and materials for all labor, materials, services and profit provided up to the date of Lessor's termination of the Sublease, as further described in Section 11(B) of the Construction Services Agreement. Neither notice to pay Sublease Payments or to deliver up possession of the Project and the Site given pursuant to law nor any proceeding in unlawful detainer taken by Lessor shall of itself operate to terminate this Sublease.

No right or remedy herein conferred upon or reserved to Lessor is exclusive of any other right or remedy herein, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time; provided, however, that notwithstanding any provisions to the contrary herein, Lessor shall not under any circumstances have the right to accelerate the Sublease Payments that fall due in future Sublease periods or otherwise declare any Sublease Payments not then in default to be immediately due and payable.

SECTION 23. NON-WAIVER.

No covenant or condition to be performed by District or Lessor under this Sublease can be waived except by the written consent of the other party. Forbearance or indulgence by District or Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until complete performance by the District or Lessor of said covenant or condition, the other party shall be entitled to invoke any remedy available to it under this Sublease or by law or in equity despite said forbearance or indulgence.

SECTION 24. ASSIGNMENT.

Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, the District shall not (a) assign, transfer, pledge, or hypothecate this Sublease, the Project and the Site, or any part thereof, or any interest therein, or (b) sublet or lend the use of the Project or any part thereof, except as authorized by the provisions of the California Civic Center Act, Education Code section 38130 et seq. Consent to any of the foregoing prohibited acts applies only in the given instance and is not a consent to any subsequent like act by the District or any other person. The Lessor shall not assign its obligations under this Sublease with the exception of their obligation to issue default notices and to convey or reconvey their interest in the Project and Site to the District upon full satisfaction of the District's obligations hereunder; however, the Lessor may assign their right, title and interest in this Sublease, the Sublease Payments and other amounts due hereunder and the Project in whole or in part to one or more assignees or subassignees at any time upon written notice to the District. No assignment shall be effective as against the District unless and until the District is so notified in writing. The District shall pay all Sublease Payments due hereunder pursuant to the direction of Lessor or the assignee named in the most recent assignment or notice of assignment. During the Sublease term, the District shall keep a complete and accurate record of all such assignments. Subject always to the foregoing, this Sublease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors, and assigns of the parties hereto.

SECTION 25. OWNERSHIP.

The Project is and shall at all times be and remain the sole and exclusive property of the Lessor, and the District shall have no right, title, or interest therein or thereto except as expressly set forth herein. During the Term of this Sublease Agreement, the District shall hold title to the Site and obtain title to the Project from the Lessor, and any and all additions which comprise futures, repairs, replacements or modifications thereof, as construction progresses and lease payments are made to Lessor. During the term of this Sublease Agreement, the Lessor shall have a leasehold interest in the Site pursuant to the Site Lease. If the District prepays the Sublease Payments in full pursuant to Section 27 hereof or otherwise pays all Sublease Payments, all remaining right, title and interest of the Lessor, if any, in and to the Project and the Site, shall be fully transferred to and vested in the District. Title shall be transferred to and vested in the District hereunder without the necessity for any further instrument of transfer. At the termination of this Sublease Agreement, title to the Site, and any improvements constructed thereon shall vest in the District.

SECTION 26. SUBLEASE PREPAYMENTS/PURCHASE OPTION.

- A. Sublease Prepayments. At any time during the term of this Sublease, the District may, upon the request of the Lessor or on upon its own initiative, make Sublease Prepayments to the Lessor. No Sublease Prepayments requested by the Lessor may be made by the District in an amount not to exceed the aggregate true cost to the Lessor of the work on the Project completed to the date the Lessor submits the request for a Sublease Prepayment less the aggregate amount of: (1) all Sublease Payments previously made by the District to the Lessor; (2) all Sublease Prepayments previously made by the District to the Lessor; (3) all amounts previously retained pursuant to Section 26(A)(3), below, from Sublease Prepayments previously made by the District to the Lessor (unless the Lessor shall have previously substituted securities for such retained amounts pursuant to Section 26(A)(3)); and (4) the Retention for such Sublease Prepayment pursuant to

Section 26(A)(3). Lessor must submit evidence that the conditions precedent set forth in Section 26(A)(1), below, have been met. In the event District elects to make Sublease Prepayments, the Prepayment Price, contemplated in Section 26(B), below, shall be adjusted accordingly.

(1) The following are conditions precedent to any Sublease Prepayments made to the Lessor pursuant to a request of the Lessor:

a. Satisfactory progress of the Construction pursuant to the time schedule required pursuant to Section 10(E) of the Construction Services Agreement (the "Time Schedule") shall have been made as determined in Section 26 (A)(2), below.

b. Lessor shall also submit to the District (i) duly executed conditional lien releases and waivers (in the form provided in California Civil Code Section 3262) from the Lessor and all Subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons conditionally waive all lien and stop notice rights against the District, the Project and the Project site with respect to the pending Sublease Prepayment to be made by the District, (ii) duly executed unconditional lien releases and waivers (in the form provided in California Civil Code Section 3262) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons unconditionally and irrevocably waive all lien and stop notice rights against the District, the Project and the Project site with respect to all previous Sublease Prepayments made by the District, and (iii) any other items that the Lessor may be required to collect and distribute to the District pursuant to the terms and provisions of the Construction Services Agreement. Lessor shall promptly pay all amounts due to each subcontractor, consultant and other person retained by Lessor in connection with the Project no later than ten (10) days after Lessor's receipt of a Sublease Prepayment from the District.

(2) The determination of whether satisfactory progress of the Construction pursuant to the Time Schedule has occurred shall be made by the architect and or the project manager hired by the District pursuant to Section 24 of the Construction Services Agreement. If the District's architect and or project manager determines that pursuant to the Time Schedule, the work required to be performed, as stated in the Lessor's Sublease Prepayment request has not been substantially completed, the Lessor shall not be eligible to receive the requested Sublease Prepayment.

(3) The District shall retain an amount equal to ten percent (10%) of each Sublease Prepayment ("Retention") made at Lessor's request, unless said Retention is modified pursuant to Section 20 of the Construction Provisions. Lessor shall have the right, as delineated in Section 35 of the Construction Services Agreement, to substitute securities for any Retention withheld by the District, pursuant to the provisions of Public Contract Code section 22300. At any time after fifty percent of the work has been completed, if the Governing Board of the District finds that satisfactory progress is being made, it may make any of the remaining Sublease Prepayments in full.

B. **Purchase Option.** If the District is not in default hereunder, the District shall be granted options to purchase not less than all the Project in as-is condition. The Prepayment Price at any given time shall be an amount equal to the GMP, as it may be revised from time to time, less the sum of any Sublease Payments and/or Sublease Prepayments made by the District prior to the date on which the District elects to exercise its option under this Section.

SECTION 27.

RELEASE OF LIENS.

- A. Notwithstanding Section 26, upon District executing a Certificate of Acceptance and filing a Notice of Completion on the Project, as such term is defined herein and in the Construction Services Agreement, Lessor or its assignee and the District shall release Lessor's leasehold interest in Project and the Site. However, District shall retain any and all claims and or warranties it may have under the Construction Services Agreement.
- B. Lessor shall authorize, execute and deliver to the District all documents reasonably requested by the District to evidence (i) the release of any and all liens created pursuant to the provisions of this Sublease and the Site Lease, and (ii) any other documents required to terminate the Site Lease and this Sublease.

SECTION 28. TERMINATION OF CONSTRUCTION SERVICES AGREEMENT.

In the event the Construction Services Agreement is terminated pursuant to the provisions contained therein, this Sublease shall immediately terminate.

SECTION 29. SEVERABILITY.

If any provision of this Sublease shall be held invalid or unenforceable by a court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision of this Sublease, unless elimination of such provision materially alters the rights and obligations embodied in this Sublease.

SECTION 30. INTEGRATION/MODIFICATION.

This Sublease constitutes the entire agreement between Lessor and the District as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

SECTION 31. NOTICES.

Services of all notices under this Sublease shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by telex, telegram, or fax followed by regular mail, addressed as follows:

If to Lessor: DJM Construction Co, Inc
1540 S. Lewis St.
Anaheim, CA 92805
Attn: David J Morales President

If to District: Colton Joint Unified School District
851 S. Mt. Vernon
Colton, CA 92324
Attn: Jaime Ayala, Assistant Supt. Business Services

With a Copy to: Atkinson, Andelson, Loya, Ruud & Romo
12800 Center Court Drive, Suite 300.
Cerritos, CA 90703
Fax: 562-653-3333
Attn: Lindsay A. Thorson, Esq.

SECTION 32. TITLES.

The titles to the sections of this Sublease are solely for the convenience of the parties and are not an aid in the interpretation thereof.

SECTION 33. TIME.

Time is of the essence in this Sublease and each and all of its provisions.

SECTION 34. LAWS, VENUE AND ATTORNEYS' FEES.

The terms and provisions of this Sublease shall be construed in accordance with the laws of the State of California. If a claim related to construction of the Project is made hereunder, the provisions of Section 34 of the Construction Services Agreement between the Parties shall control. If any action is brought in a court of law to enforce any term of this Sublease, the action shall be brought in a state court situated in the County of San Bernardino, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease by their authorized officers as of the day and year first written above.

**COLTON JOINT UNIFIED SCHOOL DISTRICT
"DISTRICT"**

**DJM Construction Co, Inc
"LESSEE"**



BY: Jaime R. Ayala, Assistant Superintendent

BY: David J Morales President

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EXHIBIT A

DESCRIPTION OF PROJECT

Colton High School is located in the City of Colton in San Bernardino County 60 miles east of Los Angeles and is part of the Colton Joint Unified School District. The proposed building is a two story, 50,000 sq. ft. structure, laid in an 'L' shaped configuration consisting of a Math and Science wing connected by a bridge, elevator and stair component. The Science wing is oriented in a north and south axis containing twelve 960 sq. ft. classrooms; six fully equipped 1,300 s.f. science labs and four 360 sq. ft. Prep Rooms. The Math wing itself, is oriented in an east and west axis containing twelve 960 sq. ft. classrooms. The building also contains student toilets on both floors as well as a teachers' lounge and staff toilets. The new facility will accommodate 1,080 students.

Aesthetically the building consists of a horizontal corrugated metal finish with a "Trespa" wainscot surrounding the entire base of both Math and Science Wings and extending up the sides of the two-story window bays. The Math and Science wings have the classrooms on either sides of a central corridor.

The roof is a flat roof with a built up roof system with three light and ventilation monitors light wells equally spaced above the open central corridor on the Science wing.

The central staircase and bridge are exposed steel. The main staircase wraps around an elevator tower and has a canopy consisting of exposed cantilevered steel beams with a corrugated metal roof. The stair is protected by steel mesh screens and its canopy rises high above the other roofs of the building to form an entry tower for the west side of the campus. The tower also supports large scale signage naming the school.

EXHIBIT B
DESCRIPTION OF SITE

Property Description: Colton High School, a 42 acre site. A.P.N. 162-071-01; 162-073-01 through 09; 162-261-01 & 02; 162-262-01 through 03.

**Property Address: 777 W. Valley Blvd.
Colton, CA 92324**

EXHIBIT C
SITE LEASE

UNDER SEPARATE COVER

EXHIBIT D
CONSTRUCTION SERVICES AGREEMENT

UNDER SEPARATE COVER

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Adoption of Resolution No. 11-18 Giving Notice of Intention to Grant An Easement For Right of Way to Southern California Edison for the Joe Baca Middle School Project

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: Southern California Edison (SCE) has requested that the District dedicate an easement to a portion of the property for the construction, operation and maintenance of underground electrical supply, fixtures and appurtenances.

Staff and legal counsel (Atkinson, Andelson, Loya, Ruud & Romo) have reviewed this request, and per Education Code 17556 et. seq. the following process is required:

1. Post copies of Resolution of Intent signed by Board members in three places within the District not less than ten days prior to the public hearing.
2. Publish a Notice of Public Hearing of Intention to Dedicate Easement once in a newspaper of general circulation not less than five days prior to the public hearing.
3. Have the public hearing at the next regularly scheduled Board meeting on December 9, 2010.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board adopt Resolution No. 11-18 giving Notice of Intention to grant an easement for right of way to Southern California Edison for the Joe Baca Middle School Project.

ACTION: On motion of Board Member _____ and _____, the Board adopted the resolution, as presented.

RESOLUTION NO. 11-18
OF THE BOARD OF EDUCATION OF COLTON JOINT UNIFIED SCHOOL
DISTRICT GIVING NOTICE OF INTENTION TO GRANT AN EASEMENT (RIGHT
OF WAY) TO SOUTHERN CALIFORNIA EDISON (LILAC AVENUE)

WHEREAS, Southern California Edison (“SCE”) has requested that the Colton Joint Unified School District (“School District”) dedicate an easement to SCE upon a portion of the School District’s Joe Baca Middle School site (“Easement”). A legal description and map depicting the location of the Easement is attached hereto as Exhibit “A” and incorporated herein;

WHEREAS, pursuant to Education Code section 17556, the governing board of a school district may convey to a public corporation, or private corporation engaged in the public utility business, for utility purposes, any real property belonging to such school district upon such terms and conditions as the parties thereto may agree;

WHEREAS, the School District desires to provide an Easement to SCE for the construction, operation and maintenance of underground electrical supply and communication systems and necessary fixtures and appurtenances thereto;

WHEREAS, pursuant to Education Code section 17557, the School District’s governing board must, prior to dedicating an Easement, adopt a resolution declaring its intention to dedicate such Easement in a regular open meeting by two-thirds (2/3) vote of all of its members;

WHEREAS, pursuant to Education Code section 17557, the School District’s governing board must fix a time at its regular place of meeting for a public hearing upon the question making the dedication of the Easement; and

WHEREAS, pursuant to Education Code section 17558, the School District is required to post copies of this Resolution, signed by the board, in three public places within the School District’s boundaries not less than ten days before the public hearing, and publish notice once, not less than five days before the public hearing in a newspaper of general circulation published in the School District, if there is one, or, if there is no such newspaper published in the School District, then in a newspaper published in the county which has a general circulation in the School District.

NOW, THEREFORE, THE BOARD DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the above recitals are all true and correct.

Section 2. That the School District’s governing board (“Board”) declares its intent to dedicate the Easement to SCE upon the terms and conditions set forth in the recitals.

Section 3. That the Board establishes December 9, 2010 for a public hearing on the question of the School District's intent to dedicate the easement to SCE.

Section 4. The School District staff shall post this resolution in three public places within the School District's boundaries and publish notice of the adoption of this Resolution in compliance with Education Code section 17558.

ADOPTED, SIGNED AND APPROVED this ____ day of _____, 2010.

President of the Governing Board for the
Colton Joint Unified School District

I, _____, Clerk of the Governing Board of Colton Joint Unified School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board held on the ____ day of _____ 2010, and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Clerk of the Governing Board of
Colton Joint Unified School District



FACILITIES DEPARTMENT

2010 OCT 25 A 9:50

October 19, 2010

Colton Joint Unified School District Facilities

Attn: Craig Sandifer

851 S. Mt. Vernon Avenue, Suite 8
Colton, CA 92324-3926

SUBJECT: Electric Service to Valley View/Cactus, Rialto
Work Order No. 6630-7220 / AI No. 0-7201
Our Reference # DSR800583568

Dear Mr. Sandifer:

You will find enclosed an original and one copy of an Amended Grant of Easement document with the additional verbiage added. Please have the original Amended Grant of Easement executed, have the signature notarized, and return to me in the envelope provided. **NOTE:** The notary public must spell out each name exactly as they appear on each signature line and the notary stamps must be clear and legible to be accepted for recording by the County Recorder's Office. **Failure to promptly return the executed easement to this office may delay the energizing and scheduling of the facility installation.** The plat and copy of the easement are for your files.

Thank you for your cooperation on this project. If you have any questions, or need additional information, please call me at (714) 568-1800 ext. 225 or E-mail me at ssmithson@spectrumland.com.

Sincerely,



Shawn Smithson
Right of Way Agent

Enclosures

RECORDING REQUESTED BY



SOUTHERN CALIFORNIA
EDISON

An EDISON INTERNATIONAL Company

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY

Real Properties
2131 Walnut Grove Avenue, 2nd Floor
Rosemead, CA 91770

Attn: Distribution/TRES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT OF
EASEMENT**

DOCUMENTARY TRANSFER TAX \$ NONE (VALUE AND CONSIDERATION LESS THAN \$100.00)	DISTRICT	WORK ORDER	IDENTITY	MAP SIZE
	Foothill	6630-7220 TD421082	0-7201	
SCE Company	FIM 208-2187-0	APPROVED:	BY	DATE
SIG. OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	APN 0254-011-04	REAL PROPERTIES	SLS/GB	10/1/2010

COLTON JOINT UNIFIED SCHOOL DISTRICT (hereinafter referred to as "Grantor"), hereby grants to SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, its successors and assigns (hereinafter referred to as "Grantee"), an easement and right of way to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time underground electrical supply systems and communication systems (hereinafter referred to as "systems"), consisting of wires, underground conduits, cables, vaults, manholes, handholes, and including above-ground enclosures, markers and concrete pads and other appurtenant fixtures and equipment necessary or useful for distributing electrical energy and for transmitting intelligence by electrical means, in, on, over, under, across and along that certain real property in the County of San Bernardino, State of California, described as follows:

A 12.00 FOOT WIDE STRIP OF LAND LYING WITHIN LOT 207 ACCORDING TO MAP SHOWING SUBDIVISION OF LANDS BELONGING TO THE SEMI-TROPIC LAND AND WATER COMPANY, AS PER MAP RECORDED IN BOOK 11, PAGE 12 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THE CENTERLINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID LOT 207; THENCE ALONG THE CENTERLINE OF LILAC AVENUE, SOUTH 00°03'25" EAST 69.00 FEET; THENCE SOUTH 89°56'35" WEST 32. 00 FEET TO THE WESTERLY LINE OF LILAC AVENUE AND THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING SOUTH 89°56'35" WEST 16.00 FEET.

This legal description was prepared pursuant to Sec. 8730(c) of the Business & Professions Code.

Grantor agrees for himself, his heirs and assigns, not to erect, place or maintain, nor to permit the erection, placement or maintenance of any building, planter boxes, earth fill or other structures except walls and fences on the above described real property. The Grantee, and its contractors, agents and employees, shall have the right to trim or cut tree roots as may endanger or interfere with said systems and shall have free access to said systems and every part thereof, at all times, for the purpose of exercising the rights herein granted; provided, however, that in making any excavation on said property of the Grantor, the Grantee shall make the same in such a manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground to as near the same condition as it was prior to such excavation as is practicable.

It is understood and agreed that this easement does not constitute a conveyance of a fee interest in Colton Joint Unified School District's ("Grantor") property or of the minerals therein and thereunder, but grants only the limited easement as provided above. The easement granted herein is on an "AS-IS" basis and Grantor makes no representation or warranty of any kind of the condition of the easement area. Grantor retains for its successors and assigns all rights and uses that do not unreasonably interfere with the use of the rights granted herein to Southern California Edison Company ("Grantee"). The easement is subject to all existing easements, covenants, and restrictions recorded against Grantor's property.

Grantee hereby agrees to defend, indemnify, and hold harmless Grantor from and against any and all claims, liability, and damages caused by Grantee's activities related to said easement, except to the extent that such claims arise from the sole active negligence or willful misconduct of Grantor, its employees, agents and contractors.

EXECUTED this ____ day of _____, 20__.

GRANTOR

COLTON JOINT UNIFIED SCHOOL DISTRICT

Signature

Print Name

Title

Signature

Print Name

Title

State of California)
)
County of _____)

On _____ before me, _____, personally
(here insert name and title of the officer)

appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(This area for notary stamp)

State of California)
)
County of _____)

On _____ before me, _____, personally
(here insert name and title of the officer)

appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

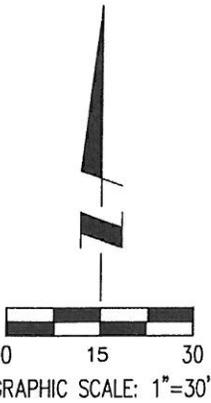
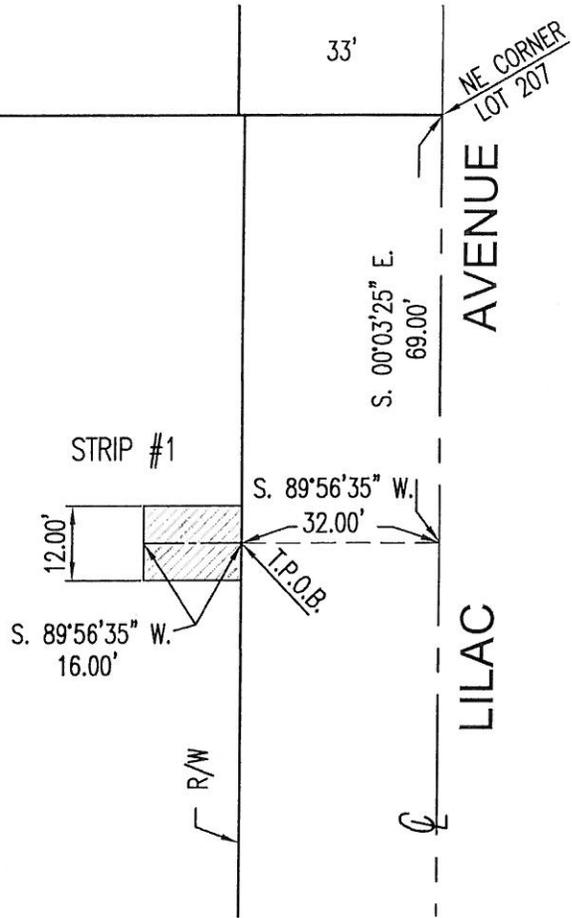
WITNESS my hand and official seal.

Signature _____

(This area for notary stamp)

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A.P.N. 0254-011-04



PREPARED UNDER THE SUPERVISION OF:
ANDREASEN ENGINEERING, INC.
CIVIL ENGINEERING • LAND SURVEYING • MUNICIPAL ENGINEERING
580 NORTH PARK AVENUE, POMONA, CALIFORNIA 91768
(909)623-1595 • FAX # (909)620-0016

**SCE
EASEMENT**

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Adoption of Resolution No. 11-20 Authorizing Signatories for State School Facilities Program, Documentation, and CEQA Officers

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: Resolution No. 11-20 authorizes Jerry Almendarez, Superintendent, Jaime R. Ayala, Assistant Superintendent, Business Services Division, and Darryl S. Taylor, Director, Facilities Planning & Construction as authorized signatories for documentation related to the State School Facilities Program for:

- Project applications
- Acting as liaisons with the State Allocation Board
- Designated CEQA officers for school projects

This Resolution also confirms that Jerry Almendarez, Superintendent and Jaime R. Ayala, Assistant Superintendent, Business Services Division are the designees of the Board to sign documentation related to the State School Facilities Program that have been approved by the Board.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board adopt Resolution No. 11-20 authorizing signatories for State School Facilities Program, documentation, and CEQA officers.

ACTION: On motion of Board Member _____ and _____, the Board adopted the resolution, as presented.

**COLTON JOINT UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 11-20**

**AUTHORIZED SIGNATORIES FOR STATE SCHOOL
FACILITIES PROGRAM – PROJECT DOCUMENTATION**

WHEREAS, the above-named school district or County Superintendent of Schools qualifying pursuant to Section 2553 of the Education Code, hereinafter referred to as the “District” is applying to the State Allocation Board for new construction and modernization through the State School Facilities Program pursuant to Chapter 12.5, part 10, of the Education Code, for needed school facilities, and for such purpose, is authorizing certain required actions in connection with said applications;

NOW, THEREFORE, BE IT RESOLVED BY the Board of Education. The Governing Body of said District, as follows:

1. That Jerry Almendarez, Superintendent, Jaime R. Ayala, Assistant Superintendent, Business Services Division, Darryl S. Taylor, Director, Facilities Planning and Construction, are hereby designated as District representatives and are hereby authorized and directed to file, on behalf of the District, applications with the State Allocation Board under Chapter 12.5, part 10, of the Education Code, as the President/Chairperson and Secretary/Clerk of the Governing Body may certify as provided herein;
2. That said District Representatives are authorized to furnish and certify to the State Allocation Board such information as may be required and are further authorized to act as liaison between the State Allocation Board and the school district in its capacity as agent of the State Allocation Board for the purposes of the projects.
3. That Jerry Almendarez, Superintendent, Jaime R. Ayala, Assistant Superintendent, Business Services Division, Darryl S. Taylor, Director, Facilities Planning and Construction are hereby designated as CEQA Officers of the District for the purpose of meeting the requirements of the California Environmental Quality Act as it may apply to any School Facilities Program projects of the District.
4. That said District Representatives are authorized to submit applications for eligibility determination and funding for programs including, but not limited to, modernization, new construction, joint use, career technical education, charter school, and/or overcrowding relief grant for any school facility projects in the District as necessary.

5. That Jerry Almendarez, Superintendent, Jaime R. Ayala, Assistant Superintendent, Business Services Division, are hereby designated authorized signatories for contracts and change orders that have been approved by the Governing Body of the District.

PASSED AND ADOPTED at a regular meeting of the Board of Education of the Colton Joint Unified School District on the 18th day of November, 2010.

Ayes:
Noes:
Absent:
Abstain:

Date

David R. Zamora, Clerk
Board of Education

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Adoption of Resolution No. 11-22 One Year Joint Use Agreement Between the Colton JUSD and the City of Fontana for Playfields at Michael D’Arcy Elementary School (2010-11)

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: The Joint Use Agreement will allow for sharing of playfields for a one year term and as defined by the agreement and pursuant to *Board Policy #3140*.

The City of Fontana wishes to use the playfields for recreation programs after school and for weekend activities. The City will schedule the playfields and clean trash and debris after the events.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board adopt Resolution No. 11-22 one year Joint Use Agreement between the Colton JUSD and the City of Fontana for playfields at Michael D’Arcy Elementary School (2010-11).

ACTION: On motion of Board Member _____ and _____ , the Board adopted the resolution, as presented.

RESOLUTION 11-22

JOINT USE AGREEMENT FOR FACILITY USE

Between the Colton Joint Unified School District and the City of Fontana
For the Parks and Playfields at Michael D’Arcy Elementary School, Fontana, California

This Agreement entered into on this 18th day of November, 2010 by the Colton Joint Unified School District, hereafter referred to as “District”, and the City of Fontana hereafter referred to as “City.”

WHEREAS, the Education Code of the State of California authorizes and empowers public school districts and municipalities to cooperate with each other for the purposes of providing meaningful leisure and educational opportunities, and toward that end enter into agreements with each other for the purpose of organizing, promoting and conducting such programs of community recreation and education objectives for children and adult citizens of the State; and,

WHEREAS, worthwhile recreational activity contributes to the well being of individuals, and in turn to the progress of society, provision of meaningful leisure opportunities can be properly recognized as a governmental service. Consequently, both municipal and education agencies have been delegated the responsibility for providing the community with these leisure skills and opportunities; and

WHEREAS, in order to minimize the duplication in the provision of these services, and to maximize potential for quality programs, both agencies are committed to cooperate with one another whenever feasible; and

WHEREAS, the District and City desire to establish a basis for the cooperative use of their respective recreational and educational facilities located in the community; and

WHEREAS, the District is owner of the playfields, the turf area and asphalt courts at Michael D’Arcy Elementary School, Fontana, California; and

WHEREAS, the City wishes to utilize the playfields for recreational purposes.

NOW, **THEREFORE**, the parties agree as follows:

1. The use of the Michael D’Arcy Elementary School playfields, hereinafter referred to as the “playfields”, shall be subject to reasonable rules and regulations as determined by the District and as defined by the Administrative Rules and Regulations.
2. All use of the playfields shall conform with the California Education Code including, but not limited to, the Civic Center Act of the Education Code Sections 10900 through 10914.5.
3. The District’s representative and the City’s representative shall meet as necessary to transact business in accordance with this agreement.
4. Any item of equipment or element of construction related to the City, which is placed on District property and which will be paid from City funds, shall be subject to the advice and

approval of the District Superintendent or Designee. Any such items of equipment or element of construction shall conform to all applicable laws, rules and regulations applicable to school districts.

5. Any item of equipment and/or element of construction purchased with funds from the City, and placed on District property shall forever be the property of the City, and may be removed from District property by the City at any time after giving the District sixty (60) days written notice, provided however, that upon such removal the premises shall be left in the same good order and condition as prevailed prior to the time of installation. Any such placement or construction shall be performed in compliance with all applicable laws, rules, regulations and City ordinances.
6. Damages to structures and equipment, whether during joint or sole use by a party, shall be the responsibility of the party exercising supervision over the facility or area at such time as the damage occurs. At all other times, damage shall be the responsibility of the party of ownership.
7. The City shall be responsible for payment of all utilities charged to its meters. The District shall be responsible for payment of all utilities charged to its meters. Meters may not be installed on school grounds without the consent of the District.
8. Maintenance of fields shall be the responsibility of the District, maintenance of the adjoining park shall be the responsibility of the City, including the infields, by mowing, edging, and trimming around all fence lines. Maintenance of equipment/structures shall be the responsibility of the owner of the equipment or structure. The upkeep of any boundary fencing surrounding the property shall be the responsibility of the District. The City shall be responsible for the removal of litter or debris resulting from a City scheduled event, and empty trash bins as necessary, as well as the upkeep of any future, District-approved additions to the playfields. The City shall be responsible for the upkeep of the irrigation systems (including the low voltage electrical systems related to their use), bleachers, lighting, and ball field fences. Upkeep of the paint on the existing facilities and graffiti abatement shall also be the responsibility of the City.
9. Each party agrees to indemnify, defend and hold harmless the other party, its officers, employees, agents and volunteers from any and all liabilities for injuries to persons and damage to property arising out of any negligent act or omission of the party, its officers, employees, agents or volunteers in connection with the use of the playfields as described herein.
10. This Agreement shall be subject to revision and modification periodically upon the request and mutual agreement of the Board of Education of the Colton Joint Unified School District and the City of Fontana.
11. The City shall be responsible for the scheduling of the fields after normal school hours of operation. A schedule of dates for such use will be so arranged as to avoid any conflict between School and City use; that in the scheduling of said field. School events and programs shall have first priority, and City events and programs shall have second priority. Any other events by other groups or agencies shall have third priority. The City shall keep the District and school principal aware of scheduled facility use.

12. The City shall inform the District, within a reasonable amount of time, of any conditions that may pose a safety hazard to the public as a result of the use of the playfields. The City Parks Maintenance staff shall include the field into its regular parks maintenance schedule.
13. Term of Agreement – The term of this agreement shall commence on the date first written above and shall remain in effect for a period of one (1) year (“Initial Term”). At the end of the Initial Term, this agreement shall renew for successive one (1) year term (“Additional Term”), unless one party provides the other party with written notice of non-renewal sent at least ninety (90) days prior to the expiration of the Initial Term or any Additional Term. If either party fails or refuses to comply with or carry out any part of the agreement, the other party may terminate this agreement by providing written notice to the responsible party of the cause for termination.
14. Termination of Agreement - It is the intent of both parties that this Agreement remain in force for a period of not less than one (1) year. However, this agreement may be terminated by either the District or the City at the end of any traditional school year. The termination will be made by the Board of Education or the city Council adopting a motion or Resolution determining to withdraw from the Joint Use Agreement, and give notice of such termination in writing, including a copy of the motion or Resolution, at least sixty (60) days prior to the end of the school year. Such notice of termination, together with a copy of the required motion or Resolution, shall be given by the Board of Education to the City Manager of the City of Fontana, or by the City Council to the Superintendent of the Colton Joint Unified School District.

THE PARTIES HEREBY EXECUTE THIS AGREEMENT BY THEIR RESPECTIVE AUTHORIZED REPRESENTATIVES:

Colton Joint Unified School District:

_____ Date: _____
 Jaime R. Ayala, Assistant Superintendent
 Business Services Division

City of Fontana:

_____ Date: _____
 Kenneth R. Hunt, City Manager
 City of Fontana

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Adoption of Resolution No. 11-23 One Year Joint Use Agreement Between the Colton JUSD and the City of Fontana for Playfields at Jurupa Vista Elementary School (2010-11)

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: The Joint Use Agreement will allow for sharing of playfields for a one year term and as defined by the agreement and pursuant to *Board Policy #3140*.

The City of Fontana wishes to use the playfields for recreation programs after school and for weekend activities. The City will schedule the playfields and clean trash and debris after the events.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board adopt Resolution No. 11-23 one year Joint Use Agreement between the Colton JUSD and the City of Fontana for playfields at Jurupa Vista Elementary School (2010-11).

ACTION: On motion of Board Member _____ and _____ , the Board adopted the resolution, as presented.

RESOLUTION 11-23

JOINT USE AGREEMENT FOR FACILITY USE

**Between the Colton Joint Unified School District and the City of Fontana
For the Parks and Playfields at Jurupa Vista Elementary School, Fontana, California**

This Agreement entered into on the 18th day of November, 2010 by the Colton Joint Unified School District, hereafter referred to as “District”, and the City of Fontana hereafter referred to as “City.”

WHEREAS, the Education Code of the State of California authorizes and empowers public school districts and municipalities to cooperate with each other for the purposes of providing meaningful leisure and educational opportunities, and toward that end enter into agreements with each other for the purpose of organizing, promoting and conducting such programs of community recreation and education objectives for children and adult citizens of the State; and,

WHEREAS, worthwhile recreational activity contributes to the well being of individuals, and in turn to the progress of society, provision of meaningful leisure opportunities can be properly recognized as a governmental service. Consequently, both municipal and education agencies have been delegated the responsibility for providing the community with these leisure skills and opportunities; and

WHEREAS, in order to minimize the duplication in the provision of these services, and to maximize potential for quality programs, both agencies are committed to cooperate with one another whenever feasible; and

WHEREAS, the District and City desire to establish a basis for the cooperative use of their respective recreational and educational facilities located in the community; and

WHEREAS, the District is owner of the playfields, the turf area and asphalt courts at Jurupa Vista Elementary School, Fontana, California; and

WHEREAS, the City wishes to utilize the playfields for recreational purposes.

NOW, THEREFORE, the parties agree as follows:

1. The use of the Jurupa Vista Elementary School playfields, hereinafter referred to as the “playfields”, shall be subject to reasonable rules and regulations as determined by the District and as defined by the Administrative Rules and Regulations.
2. All use of the playfields shall conform with the California Education Code including, but not limited to, the Civic Center Act of the Education Code Sections 10900 through 10914.5.
3. The District’s representative and the City’s representative shall meet as necessary to transact business in accordance with this agreement.
4. Any item of equipment or element of construction related to the City, which is placed on District property and which will be paid from City funds, shall be subject to the advice and

approval of the District Superintendent or Designee. Any such items of equipment or element of construction shall conform to all applicable laws, rules and regulations applicable to school districts.

5. Any item of equipment and/or element of construction purchased with funds from the City, and placed on District property shall forever be the property of the City, and may be removed from District property by the City at any time after giving the District sixty (60) days written notice, provided however, that upon such removal the premises shall be left in the same good order and condition as prevailed prior to the time of installation. Any such placement or construction shall be performed in compliance with all applicable laws, rules, regulations and City ordinances.
6. Damages to structures and equipment, whether during joint or sole use by a party, shall be the responsibility of the party exercising supervision over the facility or area at such time as the damage occurs. At all other times, damage shall be the responsibility of the party of ownership.
7. The City shall be responsible for payment of all utilities charged to its meters. The District shall be responsible for payment of all utilities charged to its meters. Meters may not be installed on school grounds without the consent of the District.
8. Maintenance of fields shall be the responsibility of the District, maintenance of the adjoining park shall be the responsibility of the City, including the infields, by mowing, edging, and trimming around all fence lines. Maintenance of equipment/structures shall be the responsibility of the owner of the equipment or structure. The upkeep of any boundary fencing surrounding the property shall be the responsibility of the District. The City shall be responsible for the removal of litter or debris resulting from a City scheduled event, and empty trash bins as necessary, as well as the upkeep of any future, District-approved additions to the playfields. The City shall be responsible for the upkeep of the irrigation systems (including the low voltage electrical systems related to their use), bleachers, lighting, and ball field fences. Upkeep of the paint on the existing facilities and graffiti abatement shall also be the responsibility of the City.
9. Each party agrees to indemnify, defend and hold harmless the other party, its officers, employees, agents and volunteers from any and all liabilities for injuries to persons and damage to property arising out of any negligent act or omission of the party, its officers, employees, agents or volunteers in connection with the use of the playfields as described herein.
10. This Agreement shall be subject to revision and modification periodically upon the request and mutual agreement of the Board of Education of the Colton Joint Unified School District and the City of Fontana.
11. The City shall be responsible for the scheduling of the fields after normal school hours of operation. A schedule of dates for such use will be so arranged as to avoid any conflict between School and City use; that in the scheduling of said field. School events and programs shall have first priority, and City events and programs shall have second priority. Any other events by other groups or agencies shall have third priority. The City shall keep the District and school principal aware of scheduled facility use.

12. The City shall inform the District, within a reasonable amount of time, of any conditions that may pose a safety hazard to the public as a result of the use of the playfields. The City Parks Maintenance staff shall include the field into its regular parks maintenance schedule.
13. Term of Agreement – The term of this agreement shall commence on the date first written above and shall remain in effect for a period of one (1) year (“Initial Term”). At the end of the Initial Term, this agreement shall renew for successive one (1) year terms (“Additional Term”), unless one party provides the other party with written notice of non-renewal sent at least ninety (90) days prior to the expiration of the Initial Term or any Additional Term. If either party fails or refuses to comply with or carry out any part of the agreement, the other party may terminate this agreement by providing written notice to the responsible party of the cause for termination.
14. Termination of Agreement - It is the intent of both parties that this Agreement remain in force for a period of not less than one (1) year. However, this agreement may be terminated by either the District or the City at the end of any traditional school year. The termination will be made by the Board of Education or the city Council adopting a motion or Resolution determining to withdraw from the Joint Use Agreement, and give notice of such termination in writing, including a copy of the motion or Resolution, at least sixty (60) days prior to the end of the school year. Such notice of termination, together with a copy of the required motion or Resolution, shall be given by the Board of Education to the City Manager of the City of Fontana, or by the City Council to the Superintendent of the Colton Joint Unified School District.

THE PARTIES HEREBY EXECUTE THIS AGREEMENT BY THEIR RESPECTIVE AUTHORIZED REPRESENTATIVES:

Colton Joint Unified School District:

_____ Jaime R. Ayala, Assistant Superintendent Business Services Division	Date: _____
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City of Fontana:

_____ Kenneth R. Hunt, City Manager	Date: _____
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BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Adoption of Resolution No. 11-24 One Year Joint Use Agreement for Facility Use Between the Colton JUSD and the City of Fontana for After School Enrichment Programs at D’Arcy, Jurupa Vista, and Sycamore Hills Elementary School (2010-11)

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: The Joint Use Agreement will allow for the sharing of the District’s facilities for a one year term as defined by the agreement and pursuant to *Board Policy #3140*.

The City of Fontana requests the use of the multi-purpose room, classrooms, library, and the computer lab for the After School Enrichment Program. The City will be responsible for cleaning after the use of facilities.

The After School Enrichment Program is paid for by the City’s general fund and fees charged to parents of participating students.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board adopt Resolution No. 11-24 One Year Joint Use Agreement for Facility Use Between the Colton JUSD and the City of Fontana for After School Enrichment Programs at D’Arcy, Jurupa Vista, and Sycamore Hills Elementary School (2010-11).

ACTION: On motion of Board Member _____ and _____ , the Board adopted the resolution, as presented.

**RESOLUTION NO. 11-24 OF THE GOVERNING BOARD
OF THE COLTON JOINT UNIFIED SCHOOL DISTRICT
APPROVING JOINT USE AGREEMENT WITH CITY OF
FONTANA FOR AFTER SCHOOL ENRICHMENT
PROGRAMS AT D'ARCY, JURUPA VISTA, AND
SYCAMORE HILLS ELEMENTARY SCHOOL**

WHEREAS, The Colton Joint Unified School District (“District”) is the owner of certain real property located at 11645 Elm Avenue, Fontana, CA 92337, known as the District’s Michael D’Arcy Elementary School (the “D’Arcy Property”); and

WHEREAS, the District is the owner of certain real property located at 15920 Village Drive East, Fontana, CA 92337, known as the District’s Jurupa Vista Elementary School (the “Jurupa Property”); and

WHEREAS, the District is the owner of certain real property located at 11036 Mahogany Drive, Fontana, CA 92337, known as the District’s Sycamore Hills Elementary School (the “Sycamore Property”); and

WHEREAS, the City of Fontana (“City”) desires the use portions of the D’Arcy Property, Jurupa Property and Sycamore Property (collectively the “Properties) for an after school program; and

WHEREAS, the District is willing to grant to the City a license for the non-exclusive use of the portions of the Properties (collectively “Facilities”) in accordance with the terms and conditions of the License Agreement attached hereto (“Joint Use Agreement”).

NOW, THEREFORE, the Governing Board of the Colton Joint Unified School District hereby finds, determines, declares, orders and resolves as follows:

Section 1. That all of the recitals set forth above are true and correct.

Section 2. Joint Use Agreement. The form of agreement entitled “Joint Use Agreement between Colton Joint Unified School District and City of Fontana” presented at this meeting to be entered into by and between the District and the City, which provides generally that District shall grant the City a license to use the Facilities upon the terms and conditions set forth therein, is hereby approved subject to any minor revisions which are deemed acceptable and advisable to the Superintendent, through consultation with staff and District legal counsel. The Superintendent or the Superintendent’s designee are hereby authorized and directed, for and in the name and on behalf of District, to execute and deliver the Joint Use Agreement in substantially such form and deliver any and all documents which are necessary or advisable in order to grant the City a license pursuant to the Joint Use Agreement.

Section 3. Other Acts. The Superintendent and/or his designee are hereby authorized and directed to do any and all things and to execute and deliver any and all documents which, in consultation with staff and District legal counsel, they may deem necessary or advisable in order

to effectuate the purpose and intent of this Resolution, and any such actions previously taken by such officers are hereby approved, ratified and confirmed.

Section 4. Effective Date. This Resolution shall take effect upon adoption.

Section 5. The term of the agreement shall be for a period of one year and shall commence on November 19, 2010.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Colton Joint Unified School District on this 18th day of November, 2010, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jaime R. Ayala, Assistant Superintendent
Business Services Division

Attested to:

David R. Zamora, Clerk of the Governing Board
of Colton Joint Unified School District

**JOINT USE AGREEMENT BETWEEN
COLTON JOINT UNIFIED SCHOOL DISTRICT
AND
CITY OF FONTANA FOR AFTER SCHOOL ENRICHMENT PROGRAMS AT
D'ARCY, JURUPA VISTA, AND SYCAMORE HILLS ELEMENTARY SCHOOL**

THIS JOINT USE AGREEMENT (“License”) is approved and entered into as of this 18th day of November, 2010 (“Effective Date”), by and between the **COLTON JOINT UNIFIED SCHOOL DISTRICT**, a California public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California (the “LICENSOR”) and **CITY OF FONTANA** a municipality (the “LICENSEE”).

RECITALS

WHEREAS, LICENSOR is the owner of certain real property located at 11645 Elm Avenue, Fontana, CA 92337, known as the LICENSOR’S Michael D’Arcy Elementary School, as more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference (the “D’Arcy Property”); and

WHEREAS, LICENSOR is the owner of certain real property located at 15920 Village Drive East, Fontana, CA 92337, known as the LICENSOR’S Jurupa Vista Elementary School, as more particularly described in Exhibit "B", attached hereto and incorporated herein by this reference (the “Jurupa Property”); and

WHEREAS, LICENSOR is the owner of certain real property located at 11036 Mahogany Drive, Fontana, CA 92337, known as the LICENSOR’S Sycamore Hills Elementary School, as more particularly described in Exhibit "C", attached hereto and incorporated herein by this reference (the “Sycamore Property”); and

WHEREAS, LICENSEE desires the use portions of the D’Arcy Property, Jurupa Property and Sycamore Property (collectively the “Properties”); and

WHEREAS, LICENSOR is willing to grant to LICENSEE this License for the non-exclusive use of the portions of the Properties designated in Exhibit “A,” “B” and “C” respectively (“D’Arcy Facilities,” “Jurupa Facilities” and “Sycamore Facilities,” collectively “Facilities”) in accordance with the terms and conditions of this License; and

WHEREAS, the parties desire by this License to provide for the terms and conditions for the use of the Facilities.

AGREEMENT

NOW, THEREFORE, the parties hereto for the consideration hereinafter expressed, covenant and agree as follows:

Section 1. Grant of License and Use of Facilities

(a) Grant of License and Use of Facilities. In consideration of the License Fee, LICENSOR grants a non-exclusive license to LICENSEE to use the Facilities for the limited purposes of conducting the City of Fontana After School Program (“Program”).

Section 2. License Fee; Deposit.

(a) License Fee. LICENSEE shall pay no fee.

Section 3. Term. Subject to Section 6 of this License, the term of this License shall be one year (“Term”), unless mutually extended in writing by both parties. Either party may, in its sole discretion, terminate this License for any or no reason, upon thirty (30) days written notice to the other party at the address set forth herein. Upon the expiration or termination of this License, at any time or upon any grounds provided herein, LICENSEE shall immediately vacate the Facilities, and if requested by the District, restore the Facilities to its condition as of the Effective Date, at the sole and exclusive cost of LICENSEE.

Section 4. Conditions to Use.

(a) Maintenance of Facilities. LICENSEE shall be responsible for and shall pay for any repairs or replacements of any character whatsoever which are occasioned or are made necessary by reason of the negligence or misuse of the Facilities by LICENSEE’s employees or invitees. LICENSEE shall notify LICENSOR immediately of any damage caused to the Facilities. In the event that LICENSEE fails to maintain or repair the Facilities, LICENSOR may, at LICENSOR’s sole discretion, undertake any maintenance or repair of the Facilities and LICENSEE shall reimburse LICENSOR for the costs of such repairs or maintenance within thirty (30) days of invoice by LICENSOR.

(b) Clean-up of Facilities. LICENSEE shall be responsible for the full and complete clean up of the Facilities and any other portions of the Properties used by the LICENSEE at the close of each and every day, leaving it in a comparable state as existed prior to the LICENSEE’s activities. In the event that LICENSEE fails to clean up and maintain the Facilities, LICENSOR may, at LICENSOR’s sole discretion, undertake any clean up or maintenance of the Facilities and LICENSEE shall reimburse LICENSOR for the costs of such clean up or maintenance within thirty (30) days of invoice by LICENSOR. Additionally, under no circumstances during the term of this License shall LICENSEE use or cause to be used in the Facilities any hazardous or toxic substances or

materials, and under no circumstance during the term of this License shall LICENSEE store or dispose of any such substances or materials in the Facilities.

(c) Non-Interference with District Activities. This License shall not grant LICENSEE the right to interfere with any District activities of LICENSOR.

(d) Conduct of LICENSEE, Employees and Invitees. LICENSEE shall insure that all employees, invitees, and all others in attendance will adhere to proper standards of public conduct. There is to be no consumption of intoxicating liquors or other controlled substances, smoking, gambling, quarreling, fighting, use of profane language, or indecent exposure on or near the Facilities.

(e) Insurance.

(i) Public Liability and Property Damage. LICENSEE agrees to maintain in full force and effect throughout the duration of the License a suitable policy or policies of public liability and property damage insurance, insuring against all bodily injury, property damage, personal injury, and other loss or liability caused by or connected with LICENSEE's use of the Facilities under this License. Such insurance shall be in amounts not less than \$1,000,000 per occurrence; \$3,000,000 for general aggregate and \$1,000,000 for property damage.

(ii) Automobile Liability. LICENSEE also agrees to maintain in full force and effect with regard to any LICENSEE owned vehicles which LICENSEE brings onto the Facilities a suitable policy or policies of automobile liability insurance with a combined single limit of \$1,000,000 per accident throughout the duration of the License.

(iii) Workers' Compensation. LICENSEE shall also maintain, in full force and effect throughout the term of this License, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.

(iv) Notice; Additional Named Insureds. All insurance required under this Agreement shall be issued as a primary policy and contain an endorsement requiring thirty (30) days written notice from the insurance company to both parties hereto before cancellation or change in coverage, scope or amount of any policy. LICENSOR, its directors, officers, agents, employees and consultants, shall be designated as additional named insureds.

(v) Insurance Endorsements. Concurrent with the execution of the License and prior to any use by LICENSEE of the Facilities, LICENSEE will provide LICENSOR with an endorsement(s) verifying such insurance and the terms described herein.

(vi) Right to Self Insure. In lieu of commercial insurance, LICENSEE shall retain the right to self-insure all or any portion of its insurance obligations herein.

(f) Indemnification. LICENSEE shall be responsible for, and LICENSOR shall not be answerable or accountable in any manner for any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of LICENSEE, its agents, officers, employees, guests or invitees, or resulting from LICENSEE's activities at the Facilities or from any cause whatsoever arising out of or in connection with this License or any other use or operations at the Facilities. LICENSEE shall indemnify and defend LICENSOR, its directors, officers, agents, employees, and invitees against and will hold and save them and each of them harmless from any and all actions, claims, liens, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, association, entity, corporation, political subdivision, or other organization arising out of or in connection with LICENSEE's activities at the Facilities, this License, and any other use of and operations at the Facilities pursuant to this Agreement, whether or not there is concurrent passive negligence on the part of LICENSOR, its agents, employees or officers, but excluding such actions, claims, damages to persons or property, penalties, obligations or liabilities arising from the sole active negligence or willful misconduct of LICENSOR. LICENSEE further agrees to indemnify, defend and hold harmless LICENSOR, its directors, officers and employees and each of them from any claim or cause of action arising out of or related to liability resulting from violation of any applicable Federal, State or local statute, ordinance, order, requirement, law or regulation that may adversely affect the Facilities, including, without limitation, any applicable labor laws and/or regulations. LICENSEE further agrees to indemnify, defend and hold harmless LICENSOR, its directors, officers and employees and each of them from any claim or cause of action arising out of or related to any personal property of the LICENSEE stored in the Facilities. In connection therewith:

(i) Actions Filed. LICENSEE shall defend any action or actions filed in connection with any of said claims, liens, damages, penalties, obligations or liabilities, and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.

(ii) Judgments Rendered. LICENSEE shall promptly pay any judgment rendered against LICENSEE or LICENSOR covering such claims, liens, damages, penalties, obligations and liabilities arising out of or in connection with such use of and operations at the Facilities referred to herein and agrees to save and hold LICENSOR harmless therefrom.

(iii) Costs and Expenses; Attorneys' Fees. In the event LICENSOR is made a party to any action or proceeding filed or prosecuted against LICENSEE for such damages or other claims arising out of the use of and operations at the Facilities referred to herein, LICENSEE agrees to pay LICENSOR any and all costs and expenses incurred by them in such action or proceeding together with reasonable attorneys' and expert witness fees.

The provisions of this Section 4(h) shall survive the termination or expiration of this License.

(g) Scheduling. LICENSEE will have access to the D'Arcy Facilities between 2:45 p.m. and 6:00 p.m. on Monday, Tuesday, Thursday, Friday, and 1:10 p.m. and 6:00 p.m. on Wednesday, access to the Jurupa Facilities between 3:00 p.m. and 6:00 p.m. Monday, Tuesday, Thursday, Friday, and 1:25 p.m. and 6:00 p.m. on Wednesday, and access to the Sycamore Facilities between 2:45 p.m. and 6:00 p.m. Monday, Tuesday, Thursday, Friday and 1:10 p.m. and 6:00 p.m. on Wednesday ("Licensed Hours"). LICENSEE may request use of the Facilities at other times outside of the Licensed Hours by submitting a written request to the LICENSOR at least seven (7) calendar days in advance of the proposed use. LICENSOR may allow or deny such request at its sole discretion.

(h) Locks – Keying and Access Authorization: The lock style, types of gates, and key/code authorization to be utilized at each individual facility will be coordinated in such a manner to allow dual access, as necessary while maintaining the safety and property security of such facility. District shall retain sole discretion and authority to determine lock style, types of gates and key/code authorization at the Properties and Facilities.

(i) Parking. The LICENSEE shall be entitled to use the parking areas on the Properties during Licensed Hours.

(j) Program Costs/Supplies/Equipment. All Program costs, supplies and/or equipment shall be the sole cost and responsibility of the LICENSEE. Supplies and/or equipment shall remain the sole responsibility of the LICENSEE and must be removed at no cost to LICENSOR upon termination of this License.

(k) Supervision and Safety. LICENSEE shall be responsible for supervising/staffing its Program. LICENSEE shall designate one or more representatives at each of the Facilities, who shall be persons of authority in LICENSEE's operational structure, and shall ensure that at least one such representative is present and available at the each of the Facilities during all hours of Program operations. LICENSEE shall provide the LICENSOR with 24-hour contact information for each such representative.

(l) Alternations/Improvements. LICENSEE shall have no right to make any changes, alterations or improvements to the Properties or Facilities provided pursuant to this License, unless LICENSOR provides written permission to make such changes, alterations or improvements, which permission may be granted and conditioned in the sole discretion of the LICENSOR.

Section 5. Compliance With Law. LICENSEE shall comply with all laws, ordinances, rules, and regulations applicable to the Facilities, enacted or promulgated by any public or governmental authority or agency, including without limitation LICENSOR, having jurisdiction over the Facilities.

Section 6. Revocation/Termination by LICENSOR. Notwithstanding anything to the contrary in this License, whether express or implied, during the Term, this

Section 11. Official Representatives. The official representative for LICENSOR shall be the Superintendent or his/her designee. The official representative for LICENSEE shall be the City or his/her designee.

Section 12. Employees/Independent Contractors. For purposes of this License, all persons employed by LICENSEE in the performance of services and functions with respect to this License shall be deemed employees of LICENSEE and no LICENSEE employee shall be considered as an employee of the LICENSOR under the jurisdiction of LICENSOR, nor shall such LICENSEE employees have any LICENSOR pension, civil service, or other status while an employee of the LICENSEE.

LICENSEE shall have no authority to contract on behalf of LICENSOR. It is expressly understood and agreed by both parties hereto that LICENSEE, while engaged in carrying out and complying with any terms of this License, is not acting as an agent, officer, or employee of LICENSOR.

Section 13. Assignment. LICENSEE shall not assign this License.

Section 14. Nondiscrimination. In utilizing the License, LICENSEE shall not discriminate against any person on account of race, color, religion, sex, marital status, national origin, or ancestry.

Section 15. As-Is Condition. The Facilities are licensed in as-is condition and LICENSOR makes no representation or warranty of any kind regarding the character of the Facilities.

Section 16. Exhibits. The following appendix which is attached hereto is incorporated herein and made a part of this License:

- Exhibit A: Location and Description of D'Arcy Property and Facilities
- Exhibit B: Location and Description of Jurupa Property and Facilities
- Exhibit C: Location and Description of Sycamore Property and Facilities

Section 17. Recitals. The Recitals are incorporated into this License as though fully set forth herein.

[signatures on following page]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

LICENSOR: Colton Joint Unified School District

By: _____

Jaime R. Ayala
Its: Assistant Superintendent, Business
Services Division

LICENSEE: City of Fontana

By: _____

Kenneth R. Hunt
Its: City Manager

Exhibit "A"

Description of D'Arcy Property and Facilities

MICHAEL D'ARCY ELEMENTARY SCHOOL

11645 Elm Avenue, Fontana, CA 92337

9.98 Acres

APN No. 0193-401-43-0000

Facilities used by the City of Fontana for After School Enrichment Program: Room 27.

Exhibit "B"

Description of Jurupa Property and Facilities

JURUPA VISTA ELEMENTARY SCHOOL

15920 Village Drive East, Fontana, CA 92337

10 Acres

APN 0193-401-19-0000, 0193-401-21-0000

Facilities used by the City of Fontana for After School Enrichment Program: Room 32,
Computer Lab, and Library.

Exhibit “C”

Description of Sycamore Property and Facilities

SYCAMORE HILLS ELEMENTARY SCHOOL

11036 Mahogany Drive, Fontana, CA 92337

12 acres

APN 255-131-09-0000

Facilities used by the City of Fontana for After School Enrichment Program: Multi-Purpose Room.

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: **Adoption of Resolution No. 11-25 One Year Joint Use Agreement for Facility Use Between the Colton JUSD and the City of Fontana for ASES Grant Funded After School Enrichment Programs at Crestmore, Smith, and Zimmerman Elementary School (2010-11)**

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: The Joint Use Agreement will allow for the sharing of facilities for a one year term as defined by the agreement and pursuant to *Board Policy #3140*.

The City of Fontana requests the use of the multi-purpose rooms for the After School Enrichment Program. The City will be responsible for cleaning after the use of facilities.

The After School Enrichment Program is paid for entirely by the After School Education and Safety (ASES) grant.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board adopt Resolution No. 11-25 one year Joint Use Agreement for facility use between the Colton JUSD and the City of Fontana for ASES grant funded After School Enrichment Programs at Crestmore, Smith, and Zimmerman Elementary School (2010-11).

ACTION: On motion of Board Member _____ and _____ , the Board adopted the resolution, as presented.

**RESOLUTION NO. 11-25 OF THE GOVERNING BOARD
OF THE COLTON JOINT UNIFIED SCHOOL DISTRICT
APPROVING JOINT USE AGREEMENT WITH CITY OF
FONTANA FOR AFTER SCHOOL PROGRAMS AT
CRESTMORE, SMITH, AND ZIMMERMAN
ELEMENTARY SCHOOL**

WHEREAS, The Colton Joint Unified School District (“District”) is the owner of certain real property located at 18870 Jurupa Avenue, Bloomington, CA 92316, known as the District’s Crestmore Elementary School (the “Crestmore Property”); and

WHEREAS, the District is the owner of certain real property located at 9551 Linden Avenue, Bloomington, CA 92316, known as the District’s Gerald Smith Elementary School (the “Smith Property”); and

WHEREAS, the District is the owner of certain real property located at 11050 Linden Avenue, Bloomington, CA 92316, known as the District’s Walter Zimmerman Elementary School (the “Zimmerman Property”); and

WHEREAS, the City of Fontana (“City”) desires the use portions of the Crestmore Property, Smith Property, and Zimmerman Property (collectively the “Properties) for an after school program; and

WHEREAS, the District is willing to grant to the City a license for the non-exclusive use of the portions of the Properties (collectively “Facilities”) in accordance with the terms and conditions of the License Agreement attached hereto (“Joint Use Agreement”).

NOW, THEREFORE, the Governing Board of the Colton Joint Unified School District hereby finds, determines, declares, orders and resolves as follows:

Section 1. That all of the recitals set forth above are true and correct.

Section 2. Joint Use Agreement. The form of agreement entitled “Joint Use Agreement between Colton Joint Unified School District and City of Fontana” presented at this meeting to be entered into by and between the District and the City, which provides generally that District shall grant the City a license to use the Facilities upon the terms and conditions set forth therein, is hereby approved subject to any minor revisions which are deemed acceptable and advisable to the Superintendent, through consultation with staff and District legal counsel. The Superintendent or the Superintendent’s designee are hereby authorized and directed, for and in the name and on behalf of District, to execute and deliver the Joint Use Agreement in substantially such form and deliver any and all documents which are necessary or advisable in order to grant the City a license pursuant to the Joint Use Agreement.

Section 3. Other Acts. The Superintendent and/or his designee are hereby authorized and directed to do any and all things and to execute and deliver any and all documents which, in consultation with staff and District legal counsel, they may deem necessary or advisable in order

to effectuate the purpose and intent of this Resolution, and any such actions previously taken by such officers are hereby approved, ratified and confirmed.

Section 4. Effective Date. This Resolution shall take effect upon adoption.

Section 5. The term of the agreement shall be for a period of one (1) year and shall commence on November 19, 2010.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Colton Joint Unified School District on this 18th day of November, 2010, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jaime R. Ayala, Assistant Superintendent
Business Services Division

Attested to:

David R. Zamora, Clerk of the Governing Board
of Colton Joint Unified School District

**JOINT USE AGREEMENT
BETWEEN COLTON JOINT UNIFIED SCHOOL DISTRICT
AND CITY OF FONTANA AFTER SCHOOL ENRICHMENT PROGRAM
FOR USE OF FACILITIES
AT CRESTMORE, SMITH AND ZIMMERMAN ELEMENTARY SCHOOL**

I. PARTIES

This Agreement (“Agreement”) is approved and entered into as of this 18th day of November, 2010 (“Effective Date”) by and between the Colton Joint Unified School District (“District”), a California public school district, and the City of Fontana (“City”), a California municipality. The District and City are referred to individually as “Party” and collectively as the “Parties.”

II. TERM

The term of this Agreement shall be one (1) year from the Effective Date (“Term”), unless mutually extended in writing by both Parties or unless sooner terminated as herein provided.

III. PROGRAM

The Parties hereby establish an after school program (hereinafter the “Program”) for the purpose of providing high quality, affordable after-school educational and literacy services and educational enrichment services at the District’s Crestmore Elementary School located at 18870 Jurupa Avenue, Bloomington, CA 92316, Gerald A. Smith Elementary School located at 9551 Linden Avenue, Bloomington, CA 92316, and Walter Zimmerman Elementary School located at 11050 Linden Avenue, Bloomington, CA 92316 (hereinafter “Program Location(s)”). The Program Locations, with the areas to be used for the Program specifically noted, are more particularly described in Exhibits “A,” “B” and “C” respectively, attached hereto and incorporated by this reference.

The Program shall be operated pursuant to this Agreement, the requirements of Education Code § 8482 *et seq.*, and applicable District policies and procedures.

IV. AGREEMENT

In consideration of the mutual promises and conditions set forth below, the Parties’ hereby agree as follows:

A. Administration/Oversight

Unless otherwise specified herein, the District shall be responsible for overseeing and administering the Program.

B. Application/Enrollment

Only those students in attendance for the regular school day at a Program Location may apply to participate in the Program at that Program Location. Eligible students shall be enrolled on a space-available basis. The City shall maintain a waiting list.

The City shall process and maintain enrollment/registration documentation for each Program participant.

C. Days/Hours of Service

Program services shall be provided on each day in which the school at the Program Location is in regular session, including any minimum days. Program services shall commence immediately upon conclusion of the regular District school day, including minimum days, and shall extend to 6:00 p.m. on each such day (“Program Hours”). In any event, Program services shall be offered for at least 15 hours per week. No Program services shall be provided on summer, intersession, vacation, or weekend days. City may request use of a Program Location at other times outside of the Program Hours by submitting a written request to the District at least seven (7) calendar days in advance of the proposed use. The District may allow or deny such request at its sole discretion.

D. Tracking Student Attendance

The City shall maintain and submit to the District daily student attendance logs in accordance with District policies/procedures. The District shall maintain and track attendance data, via use of a computer database, for purposes of attendance reporting and related requirements of the Program.

E. Fees

Students enrolled in the Program shall not be charged any fee.

F. Funding

Funding for the Program (hereinafter “Program Funding”) shall be provided through a grant obtained from the California Department of Education (“CDE”), known as the After School Education and Safety Grant (hereinafter “Grant”). It is the intent of the Parties that the Grant will be obtained in the name of the District.

G. Program Components

1. The City shall ensure that Program services provided at each Program Location are compliant with all applicable requirements of the Grant. At the time of execution of this Agreement, those requirements include, in pertinent part:
 - a. An educational and literacy element in which tutoring or homework assistance is provided in one or more of the following

areas: Language arts, mathematics, history and social science, computer training, or science.

- b. An educational enrichment element, that may include, but need not be limited to, fine arts, career technical education, recreation, physical fitness, and prevention activities.
2. The Parties agree to work together to integrate Program services with the District's educational program.
3. It is the intent of the Parties that Program services shall include, but not be limited to, guest speakers, field trips and excursions.
4. The City shall provide a daily snack to Program participants, and shall ensure that such snacks are compliant with all applicable requirements of the Program.

H. Parent Communications and Handbook

The City shall register Program participants, and shall serve as the primary point of contact for parents of Program participants.

The Parties shall jointly collaborate in preparing a parent handbook for distribution to parents of Program participants.

I. Reports to California Department of Education

The City shall maintain and regularly submit to the District statistical data for use in reports to California Department of Education as required under the Grant and the Program, said statistical data to include the following:

1. Attendance reports (annual and semi-annual)
2. Statewide evaluation data report (annually) which includes information on all Grant students; annual attendance participation, regular school; attendance, EL program identification, grade level, and STAR performance level for ELA and math
3. Fiscal reports (quarterly)

The District shall file all necessary reports with California Department of Education. City shall assist District and provide any documentation or information necessary to complete the reports.

J. Policy

Subject to each and every provision of this Agreement and applicable law, the District shall adopt policies and procedures applicable to the Program, provided that the District shall consult with the City prior to adopting any such policy. Such policies may include, but shall not be limited to the following subject areas:

1. Application procedures
2. Enrollment levels and eligibility
3. Staffing levels of City employees and City volunteers (minimum 20:1 ratio or less)
4. Training for employees/volunteers
5. Suspension/dismissal/exclusion of students from the Program
6. Facilities
7. Dates and hours of operation at each Program Location
8. Computer use
9. Tracking student attendance

K. Facilities

The District shall provide facilities sufficient to house the Program at each Program Location. The facilities provided at each Program Location shall include, but may not necessarily be limited to classrooms, computer labs, restrooms, libraries, outdoor play space and storage space for Program equipment and materials. Specific facilities available at each Program Location shall be designated in the attached Exhibits.

The District shall provide custodial services for and maintain the facilities provided at each Program Location to the same standard as the other District facilities at the Program Locations. City shall be responsible for the full and complete clean up of the facilities used by the Program and any other portions of the Program Locations used by the City at the close of each and every day, leaving it in a comparable state as existed prior to the Program activities.

This Agreement shall not grant the City the right to interfere with any District activities.

The City Site Supervisor and District Site Supervisor shall insure that all employees, invitees, and all others in attendance will adhere to proper standards of public conduct. There is to be no consumption of intoxicating liquors or other controlled substances, smoking, gambling, quarreling, fighting, use of profane language, or indecent exposure on or near the Program Locations.

L. Equipment

The City shall provide all materials, supplies, tools, instruments, implements, and equipment required for purposes of the Program. Provided, however, that the District shall allow reasonable access to, and use of, District library and computer resources,

subject to compliance with any applicable District policies governing reasonable use of such resources.

M. Training

The City shall provide staff development training which shall be offered to all persons employed or volunteering pursuant to this Agreement.

N. Health Screening/Fingerprinting

Each and every person employed or volunteering in connection with the Program shall be subject to health screening (including tuberculosis testing) and fingerprinting in the same manner, and in accordance with the same District policies and procedures, as apply to District instructional aides. The District, through its Program Administrator, shall administer such health screening and fingerprinting.

In the event the City becomes aware that that any person employed or volunteering in connection with the Program has been arrested or convicted of a violent or serious felony listed in Penal Code §667.5(c) or Penal Code § 1192.7, respectively, the City shall immediately notify the District and remove said employee or volunteer from performing services under this Agreement and from otherwise interacting with District students until such time as the District authorizes the employee or volunteer to resume performing services under this Agreement.

O. Employees/Staffing

1. The District shall appoint and employ an administrator (hereinafter “Program Administrator”), who shall administer and oversee the entire Program. Provided, however, that the Program Administrator shall not supervise or evaluate City employees or volunteers.
2. The school principal or designee at each Program Location (hereinafter “District Site Supervisor”) shall be present on or about the grounds of the Program Location during all Program hours, and shall supervise all District employees and volunteers at that Program Location.
3. The City shall appoint and employ a site supervisor at each Program Location (hereinafter “City Site Supervisor”), subject to the prior and ongoing approval of the District Site Supervisor at that Program Location. The City Site Supervisor shall provide direct on-site supervision during all hours of Program operation at their assigned Program Location, and shall supervise all City employees and volunteers at that Program Location.
4. Within five (5) days of the Effective Date the Parties shall exchange a list including the name and 24-hour contact information for the Program Administrator, District Site Supervisor for each Program Site and City Site Supervisor for each Program Site. The Parties shall update this list within 24 hours of any personnel change.

5. The City shall appoint and employ staff members at each Program Location (hereinafter “Program Staff”), subject to the prior and ongoing approval of the Program Administrator. The Program Administrator shall specifically ensure, in part, that all Program Staff who directly supervise pupils meet the minimum qualifications to serve as an instructional aide in the District.
6. The District and City may appoint volunteers to serve at each Program Location (hereinafter “Program Volunteers”), subject to the prior and ongoing approval of the Program Administrator, District Site Supervisor at that Program Location, and City Site Supervisor at that Program Location.
7. The Parties shall maintain Program Staff sufficient to ensure a 20 to 1 student-Program Staff-ratio at each Program Location (exclusive of the City Site Supervisor).
8. The Parties shall collaboratively develop job descriptions for Program Staff and other staff at each Program Location, and shall collaboratively develop guidelines for use of Program Volunteers.
9. The City shall serve as the sole employer of all City employees required to staff the Program, and shall exercise exclusive authority to supervise and evaluate its employees, except as expressly provided herein.
10. The District shall serve as the sole employer of all District employees required to staff the Program, and shall exercise exclusive authority to supervise and evaluate its employees.
11. Each Party shall comply with all applicable federal, state, and local laws and ordinances with respect to its employees and volunteers.
12. All persons employed by City in the performance of services and functions with respect to this Agreement shall be deemed employees of City and no City employee shall be considered as an employee of the District under the jurisdiction of District, nor shall such City employees have any District pension, civil service, or other status while an employee of the City. All persons employed by District in the performance of services and functions with respect to this Agreement shall be deemed employees of District and no District employee shall be considered as an employee of the City under the jurisdiction of City, nor shall such District employees have any City pension, civil service, or other status while an employee of the District. Neither Party may contract on behalf of the other Party,

P. Payment/Budget

1. The Parties shall at least annually approve a budget for all Grant funds (hereinafter the “Program Budget”). Prior approval of the Program

Budget by both Parties is required. Any funds budgeted but unused shall be reallocated for Program use in a subsequent budget, to the extent allowed or required by law.

2. The Parties shall not expend Grant funds except in accordance with the Program Budget.
3. The Program Budget shall apportion funds as follows:
 - a. 85 percent of Grant funds shall be allocated to Program Locations for direct services to pupils, including but not limited to academic enrichment, social and cultural programs, physical education/nutrition courses, and literacy development.
 - b. No more than 15 percent of Grant funds shall be allocated to administrative costs, to be further allocated as follows:
 - 1) 5 percent of these Grant funds (or such lesser amount as is determined by the California Department of Education to be the District's "indirect cost rate," pursuant to Education Code § 8483.9(a)(1)) shall be allocated to the District for indirect costs.
 - 2) The remainder of the 15 percent of these Grant Funds shall be allocated to the District for administrative costs.
4. The District shall disperse Grant funds on a monthly basis, in accordance with the Program Budget.

Q. Sub-Contracting/Assigning

Neither Party shall subcontract or assign its duties under this Agreement.

R. Insurance

(i) Public Liability and Property Damage. City agrees to maintain in full force and effect throughout the duration of the Agreement a suitable policy or policies of public liability and property damage insurance, insuring against all bodily injury, property damage, personal injury, and other loss or liability caused by or connected with City's use of the Program Locations under this Agreement. Such insurance shall be in amounts not less than \$1,000,000 per occurrence; \$3,000,000 for general aggregate and \$1,000,000 for property damage.

(ii) Automobile Liability. City also agrees to maintain in full force and effect with regard to any City owned vehicles which City brings onto the Program Locations a suitable policy or policies of automobile liability insurance with a combined single limit of \$1,000,000 per accident throughout the duration of the Agreement.

(iii) Workers' Compensation. City shall also maintain, in full force and effect throughout the term of this Agreement, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.

(iv) Notice; Additional Named Insureds. All insurance required under this Agreement shall be issued as a primary policy and contain an endorsement requiring thirty (30) days written notice from the insurance company to both Parties hereto before cancellation or change in coverage, scope or amount of any policy. District, its directors, officers, agents, employees and consultants, shall be designated as additional named insureds.

(v) Insurance Endorsements. Concurrent with the execution of the Agreement and prior to any use by City of the Program Locations, City will provide District with an endorsement(s) verifying such insurance and the terms described herein.

(vi) Right to Self Insure. In lieu of commercial insurance, City shall retain the right to self-insure all or any portion of its insurance obligations herein.

S. Liability/Indemnification

Neither Party nor any of its officers, agents, volunteers, contractors, or employees shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of the other Party under or in connection with any obligation under this Agreement. Each Party shall indemnify, defend and hold harmless the other Party, its officers, agents, volunteers, contractors, and employees from any and all liability, loss, expense (including reasonable attorneys' fees and other defense costs), or claims imposed for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal injury, or property damage occurring by reason of any acts or omissions on the part of the Party's own officers, agents, volunteers, contractors, and employees under or in connection with this Agreement. This indemnity shall survive termination of this Agreement.

T. Termination

Either Party may, in its sole discretion, terminate this License for any or no reason, upon sixty (60) days written notice to the other Party at the address set forth herein.

In the event of a substantial loss of Grant funding, either Party may suspend operation of the Program, to an extent consistent with the amount of the lost Grant funding.

V. MISCELLANEOUS

A. Notice/Authorization

Notices required to be given pursuant to this Agreement shall be in writing and shall be delivered via: (i) personal delivery; (ii) certified or registered United States mail, postage pre-paid and return receipt requested; (iii) facsimile transmission, with original deposited

into United States mail, first-class postage prepaid, within twenty-four hours of transmission; or (iv) reliable overnight delivery services, such as U.P.S., Federal Express or Overnight Express. Provided, however, that any such notice shall be valid only if delivered to the following person(s):

For the District:

Colton Joint Unified School District
Attn: Darryl Taylor, Director, Facilities Planning & Construction
851 South Mt. Vernon Avenue, Suite 8
Colton, CA 92324

For the City:

City of Fontana
Attn: Garth Nelson, Community Services Division
16860 Valencia Avenue
Fontana, CA 92335

B. Entire Agreement

This Agreement contains the entire agreement between the Parties with respect to the matters covered hereby, and supersedes all prior agreements, written or oral, between the Parties. No other agreement, statement, or promise made by any party not contained herein shall be binding or valid. This Agreement shall be construed as one document and all of the agreements herein are in exchange for and in consideration of the commitments of each and all of the Parties herein as set out above.

C. Enforceability

Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, or provisions shall not be affected thereby and said illegal, unenforceable, or invalid part, term, or provision shall be deemed not to be part of this Agreement.

D. Further Documents

Each Party will execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such further instruments and documents as may be necessary in order to consummate this Agreement.

E. Construction

The Parties agree that each Party has been represented by counsel; that counsel for each Party has reviewed this Agreement; and that any rules of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in any interpretation of this Agreement or any amendments or exhibits thereto.

F. As-Is Condition

The Program Locations are licensed in as-is condition and District makes no representation or warranty of any kind regarding the character of the Program Locations.

G. Alteration/Improvements

City shall have no right to make any changes, alterations or improvements to the Program Locations provided pursuant to this Agreement, unless District provides written permission to make such changes, alterations or improvements, which permission may be granted and conditioned in the sole discretion of the District.

H. Compliance with Law

City shall comply with all laws, ordinances, rules, and regulations applicable to the Program Locations, enacted or promulgated by any public or governmental authority or agency, including without limitation District, having jurisdiction over the Program Locations.

I. Legal Interpretation of Instrument

The Parties expressly understand and agree that this Agreement constitutes a non-exclusive license for use of the Program Locations. This Agreement is not intended by the Parties, nor shall it be legally construed, to convey a leasehold, easement, or other interest in real property. Should either Party be compelled to institute arbitration, legal, or other proceedings against the other for or on account of the other Party's failure or refusal to perform or fulfill any of the covenants or conditions of this Agreement on its part to be performed or fulfilled, the Parties agree that the rules and principles applicable to licenses shall govern such actions or proceedings. This Agreement shall be governed by the laws of the State of California.

J. Attorneys' Fees

If any legal action is necessary to enforce any of the terms or conditions of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which it may be entitled.

K. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the effective date.

COLTON JOINT UNIFIED SCHOOL DISTRICT

By: _____
Name: Jaime R. Ayala
Title: Assistant Superintendent, Business Services Division

CITY OF FONTANA

By: _____
Name: Kenneth R. Hunt
Title: City Manager, City of Fontana

EXHIBIT "A"

CRESTMORE ELEMENTARY SCHOOL

18870 Jurupa Avenue, Bloomington, CA 92316

10 acres

APN 257-101-05

Facilities used by The City of Fontana for After School Enrichment Program: Multi-Purpose Room.

EXHIBIT "B"

SMITH ELEMENTARY SCHOOL

9551 Linden Avenue, Bloomington, CA 92316

9.5 acres

APN 250-071-01, 02

Facilities used by The City of Fontana for After School Enrichment Program: Multi-Purpose Room.

EXHIBIT “C”

ZIMMERMAN ELEMENTARY SCHOOL

11050 Linden Avenue, Bloomington, CA 92316

10 acres

APN 256-121-18

Facilities used by The City of Fontana for After School Enrichment Program: Multi-Purpose Room.

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Approval of Agreement Between the City of Rialto and Colton Joint Unified School District for the Design and Construction of a New Traffic Signal at Valley Boulevard/Cactus Avenue Intersection at Joe Baca Middle School

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: After the completion of a traffic study, it was determined that the installation of a traffic control signal is necessary at the intersection of Valley Boulevard and Cactus Avenue. The traffic signal will protect the safety of students and regulate the flow of vehicular traffic around Joe Baca Middle School.

The City of Rialto has agreed to share the cost of the installation of the traffic signal with the District. The City will pay for the costs up front, and once the construction is complete, the District will reimburse the City.

The estimated cost of the traffic signal is approximately \$250,000. The City is to pay \$125,000 and the District is to pay \$125,000.

BUDGET IMPLICATIONS: Bond Fund 21 Measure G Expenditure: \$125,000

RECOMMENDATION: That the Board approve the agreement between the City of Rialto and Colton Joint Unified School District for the design and construction of a new traffic signal at Valley Boulevard/Cactus Avenue intersection at Joe Baca Middle School.

ACTION: On motion of Board Member _____ and _____, the Board approved the agreement, as presented.

**AGREEMENT BETWEEN THE CITY OF RIALTO AND
COLTON JOINT UNIFIED SCHOOL DISTRICT FOR
DESIGN & CONSTRUCTION OF A NEW TRAFFIC SIGNAL AT
VALLEY BOULEVARD/CACTUS AVENUE INTERSECTION**

THIS AGREEMENT is entered into in the State of California by and between the Colton Joint Unified School District, hereinafter called the DISTRICT, and

Name CITY OF RIALTO hereinafter called: CITY
Address 150 SOUTH PALM AVENUE
RIALTO, CA 92376
Telephone (909) 820-2525

IT IS HEREBY AGREED AS FOLLOWS:

WITNESSETH

WHEREAS, the Colton Joint Unified School District (hereinafter referred to as DISTRICT) and the City of Rialto (hereinafter referred to as CITY) desire to cooperate and jointly participate in a project to install a traffic signal control at the intersection of Valley Boulevard and Cactus Avenue (hereinafter referred to as PROJECT); and

WHEREAS, the PROJECT is located in the City of Rialto, and will be of mutual benefit to the DISTRICT and CITY; and

WHEREAS, it is anticipated that the funding for the total cost of the PROJECT will be from DISTRICT funds and CITY local funds; and

WHEREAS, the total cost of the PROJECT is estimated to be \$250,000 ("Estimated Total Cost"). The DISTRICT's share of PROJECT cost is estimated at \$125,000 (50% of PROJECT) and the CITY's share of PROJECT cost is estimated at \$125,000 (50% of PROJECT), as more particularly set forth in Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, The Parties acknowledge that the Estimated Total Cost is not a firm estimate and that a firm estimate will not be available until design is completed, any necessary approvals are estimate and obtained and any necessary bids are accepted. Once a firm estimate of the costs ("PROJECT Budget") is determined by the Parties a breakdown of costs and final financial obligations of the Parties will be attached hereto as Exhibit "B."

WHEREAS, DISTRICT and CITY desire to set forth responsibilities and obligations of each as pertains to such participation and to the design, construction, and funding of the proposed PROJECT.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1.0 CITY AGREES TO:

- 1.1 Act as the Lead Agency in the design and construction of the PROJECT.
- 1.2 Provide plans and specifications and all necessary construction engineering for the PROJECT
- 1.3 Construct the PROJECT by contract in accordance with the plans and specifications of CITY, which have been reviewed and approved by CITY and DISTRICT, and the Caltrans Design Manual, 20 year design life.
- 1.4 Arrange for relocation of all utilities which interfere with construction of the PROJECT within the entire PROJECT limits. This shall be included as a PROJECT cost.

- 1.5 Obtain a no-cost easement from the DISTRICT for work within the DISTRICT's right-of-way, in accordance with the requirements for granting easements set forth in Education Code section 17556 *et seq.*
- 1.6 Advertise, award and administer the construction of the PROJECT, in accordance with all applicable federal, state or local statutes, ordinances, orders, governmental requirements, laws or regulations, including but not limited to the local agency public construction codes, California Labor Code and California Public Contract Code.
- 1.7 Require its Contractor to maintain and to comply throughout the term of any contract awarded by CITY with the insurance requirements described in the CITY policy.
- 1.8 Provide adequate inspection of all items of work performed under the construction contract(s) with CITY's contractors or subcontractors for the PROJECT in order to confirm that construction is performed in accordance with the approved plans and specifications and in accordance with all applicable federal, state or local statutes, ordinances, orders, governmental requirements, laws or regulations and maintain adequate records of inspection and materials testing. CITY shall provide copies of any records of inspection and materials testing to DISTRICT within ten (10) days of CITY's receipt of written demand from DISTRICT for such records. This shall be included as a PROJECT cost.
- 1.9 After bid opening and prior to award of the contract, submit to the DISTRICT an estimated total for DISTRICT's share of the PROJECT Budget.
- 1.10 Pay its proportionate share of the PROJECT costs, which shall be fifty percent (50%) of the PROJECT Budget (see Exhibit A and B). CITY shall also advance DISTRICT's proportionate share of the PROJECT costs, which shall be 50% of the PROJECT Budget (see Exhibit A and B).. The PROJECT costs shall include the cost of PROJECT design, construction, construction engineering, inspection, California Environmental Quality Act ("CEQA") compliance. CITY's share of PROJECT costs is estimated at \$125,000 (50% of PROJECT). CITY shall be responsible for fifty percent (50%) of the PROJECT Budget, plus its share of any PROJECT cost increases pursuant to paragraph 3.7 and 3.12 below and pay such costs from CITY funds. If right-of-way is needed beyond DISTRICT'S right-of-way, the CITY shall order title reports on such parcels. All costs associated with right-of-way acquisition services shall be paid solely by CITY and be at no cost to the DISTRICT.
- 1.11 Submit to the DISTRICT, within ninety (90) days of filing a Notice of Completion for the PROJECT, an itemized accounting of actual PROJECT costs incurred by CITY. If the DISTRICT's share of PROJECT cost exceeds the DISTRICT's estimated proportionate share of the PROJECT costs, the itemized accounting shall include a statement for DISTRICT's share of the PROJECT costs in excess of that amount. Costs shall be amended following CITY and DISTRICT acceptance of the final construction cost accounting.
- 1.12 Provide services to acquire the right-of-way, if needed for the PROJECT, including contacting the owner or occupant, entering properties, appraising right-of-way parcels, inspecting and negotiating takes and easements including improvements, at CITY's sole cost and at no cost to DISTRICT.
- 1.13 To prepare any and all environmental documents and obtain necessary environmental approvals for the Project in accordance with the CEQA and any other applicable federal, state or local statutes, ordinances, orders, governmental requirements, laws or regulations.

2.0 DISTRICT AGREES TO:

- 2.1 Reimburse the CITY for the DISTRICT's proportionate share of the PROJECT costs, which shall be 50% of the PROJECT Budget (see Exhibit A and B). The PROJECT costs shall include the cost of PROJECT design, construction, construction engineering, inspection, CEQA compliance. DISTRICT's share of the PROJECT costs is estimated at \$125,000 (50% of PROJECT). The DISTRICT shall deposit 50% of the PROJECT Budget into the City's designated account within sixty (60) days of receipt of an itemized accounting of actual PROJECT costs incurred by CITY, together with adequate documentation of said expenditures..
- 2.2 Reimburse the CITY for PROJECT costs in excess of 50% of the PROJECT Budget, including DISTRICT's portion of any PROJECT cost increases pursuant to paragraph 3.7 and 3.12

below. Such reimbursement shall be made within sixty (60) days after receipt of an itemized statement as set forth in paragraph 1.11 of this Agreement setting forth all actual PROJECT costs incurred by CITY to date and which have not already been paid by DISTRICT, together with adequate documentation of said expenditures.

- 2.3 Provide a no-cost easement to the CITY for its work in the DISTRICT's right-of-way, in accordance with the requirements for granting easements set forth in Education Code section 17556 *et seq.*

3.0 IT IS MUTUALLY AGREED:

- 3.1 After CITY's and DISTRICT's acceptance of completed PROJECT, the CITY shall operate and maintain the traffic control signal and the lighting for PROJECT at no additional cost to DISTRICT. Ownership and title to all improvements installed as part of the PROJECT will automatically vest with the jurisdiction in which the improvements reside and no further agreement will be necessary to transfer ownership.
- 3.2 CITY agrees to defend, indemnify and hold harmless DISTRICT, its officials, officers, employees and agents from any and all liability from loss, damage or injury to property or persons, in any manner arising out of any negligent acts, omissions or willful misconduct of the CITY arising out of or in connection with CITY's performance of this Agreement but excluding such actions, claims, damages to persons or property, penalties, obligations or liabilities arising from the sole negligence or willful misconduct of the DISTRICT, and in connection therewith.
- 3.3 DISTRICT agrees to defend, indemnify and hold harmless CITY, its officials, officers, employees and agents from any and all liability from loss, damage or injury to property or persons, in any manner arising out of any negligent acts, omissions or willful misconduct of the DISTRICT arising out of or in connection with DISTRICT's performance of this Agreement but excluding such actions, claims, damages to persons or property, penalties, obligations or liabilities arising from the sole negligence or willful misconduct of the CITY, and in connection therewith.
- 3.4 Reserved.
- 3.5 In the event of litigation arising from this agreement, each Party to the agreement shall bear its own costs, including attorney fees. This paragraph shall not apply to the costs or attorney fees relative to paragraphs 3.2 and 3.3 indemnification.
- 3.6 DISTRICT and CITY are authorized self-insured public entities and warrant that through their programs of self-insurance they have adequate coverage or resources to protect against liabilities arising out of DISTRICT and CITY's performance of this Agreement.
- 3.7 The Parties acknowledge that final PROJECT costs may ultimately exceed current estimates of PROJECT costs or the PROJECT Budget. Any additional PROJECT costs resulting from increased bid prices, change orders, or arising from unforeseen site conditions, including Utility relocation (but not from requested additional work by the DISTRICT or CITY, which is addressed in paragraph 3.8 below) over the estimated total of the PROJECT's cost of \$250,000 shall be borne by each Party on a 50-50 basis.
- 3.8 If either DISTRICT or CITY requests additional work that is beyond the scope of the original PROJECT, said work will be paid solely by the agency requesting the work at the construction contract unit costs, or if no unit costs are available, then the fixed cost negotiated by the CITY and agreed to by the Party requesting the work.
- 3.9 CITY shall notify DISTRICT of the bids received and the amounts thereof. Within ten (10) days thereafter, DISTRICT and CITY shall determine the cost of the PROJECT- the PROJECT Budget. In the event that either Party intends to cancel this Agreement based upon the bids or amount thereof, said Party shall notify the other Party within ten (10) days prior to the awarding of a contract to construct the PROJECT to avoid any detrimental reliance by either contracting Party, contractor or potential contractor.
- 3.10 If after opening bids for the PROJECT, it is found that a cost overrun of 25% or less of the estimated PROJECT costs will occur, CITY may award the contract, subject to the limitations set forth in this Agreement.
- 3.11 If, upon opening of bids, it is found that a cost overrun exceeding 25% of the estimated PROJECT costs will occur, CITY shall not award any contracts for the PROJECT. Rather

DISTRICT and CITY shall endeavor to agree upon an alternative course of action, including re-bidding of the PROJECT. If, after thirty (30) days, an alternative course of action is not mutually agreed upon in writing, this Agreement may be terminated by mutual consent of the Parties.

- 3.12 In the event that change orders are required during the course of the PROJECT, said change orders must be in form and substance as set forth in attached Exhibit "B" of this Agreement and approved by both DISTRICT and CITY. Contract Change Order forms will be delivered by fax and must be returned within two (2) working days (excluding Fridays). CITY shall inform the DISTRICT of the need for any changes to the PROJECT or the PROJECT Budget. The Parties shall agree to collaborate and cooperate in an attempt to reach agreement with respect to the final costs and to any change orders that affect the PROJECT or PROJECT Budget. In the event that cost increases are necessary and the PROJECT Budget cannot be increased, the Parties will meet to conduct value engineering or mutually agree on a change in the PROJECT, so that costs remain within the PROJECT Budget. All changes to the PROJECT or the PROJECT Budget must be approved in writing by all Parties. DISTRICT shall be responsible for fifty percent (50%) of costs in excess of the PROJECT Budget. CITY shall be responsible for fifty percent (50%) of costs in excess of the PROJECT Budget.
- 3.13 This Agreement may be cancelled upon thirty (30) days written notice of either Party, provided however, that neither Party may cancel this Agreement after CITY awards a contract to construct the PROJECT. In the event of cancellation as provided herein, all PROJECT costs required to be paid by the Parties prior to the effective date of cancellation shall be paid by the Parties in the same proportion to their contribution for the PROJECT.
- 3.14 Except with respect to the Parties' indemnification obligations contained herein, this Agreement shall terminate upon the filing of a Notice of Completion for the PROJECT and payment of final billing by the DISTRICT for its share of the PROJECT costs.
- 3.15 This Agreement contains the entire agreement of the Parties with respect to subject matter hereof, and supersedes all prior negotiations, understandings or agreements if any. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.
- 3.16 This Agreement shall be governed by the laws of the State of California. Any action or proceeding between CITY and DISTRICT concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement or the PROJECT, shall be instituted and tried in the appropriate state court in the County of San Bernardino, California.
- 3.17 Time is of the essence for each and every provision of this Agreement.
- 3.18 Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for any or against any Party. Any term referencing time, days or period for performance shall be deemed work days. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 3.19 No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 3.20 If a court of competent jurisdiction declares any portion of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this agreement is frustrated.
- 3.21 This Agreement may be signed in counterparts, each of which shall constitute an original.

THIS AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of both Parties.

IN WITNESS WHEREOF, the Parties to these presents have hereunto set their hands.

COLTON JOINT UNIFIED SCHOOL DISTRICT

(Print or type name of corporation, company, contractor, etc.)

Chairman, Board of Supervisors

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
of the DISTRICT.

By _____
Deputy

By _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

EXHIBIT A
ESTIMATE OF PROJECT COSTS

**FOR CITY OF RIALTO/DISTRICT OF SAN BERNARDINO
FOR TRAFFIC CONTROL SIGNAL INSTALLATION
AT VALLEY BOULEVARD/CACTUS AVENUE
IN THE CITY OF RIALTO**

DESCRIPTION	LIMITS	TOTAL COST OF PROJECT	COLTON UNIFIED SCHOOL DISTRICT SHARE	% OF PROJECT DISTRICT	CITY OF RIALTO SHARE	% OF PROJECT CITY
Traffic Signal Installation	Intersection of Valley Boulevard and Cactus Avenue	\$250,000	\$125,000	50%	\$125,000	50%
TOTAL		\$250,000	\$125,000	50%	\$125,000	50%

EXHIBIT B
PROJECT BUDGET

Not available until design is completed.

EXHIBIT C

CONTRACT CHANGE ORDER REVIEW/APPROVAL

PROJECT:
VALLEY BOULEVARD @ CACTUS AVENUE
CITY OF RIALTO CONTRACT #

File: T00690

Proposed Contract Change Order No. _____ has been reviewed in accordance with the existing agreements with the City of Rialto and DISTRICT of San Bernardino for the above project and the following shall apply:

DATE OF CITY OF RIALTO ACTION: ____/____/____

- APPROVED for Implementation with 100% Participation by DISTRICT
- APPROVED Subject to Comments/Revisions Accompanying This Document
- APPROVED With Limited Funding Participation by DISTRICT
 - _____% of Actual Cost to be Funded by DISTRICT
 - CITY OF RIALTO Participation Not to Exceed \$ _____
- DISAPPROVED -Not Acceptable to DISTRICT

Note: Approval under any of the above conditions shall in no case be construed as agreement to increase the total financial participation beyond that prescribed in the existing DISTRICT agreements without separate amendment to said agreements. Net increases in costs deriving from this and previously approved Contract Change Orders shall not cause the total construction costs to exceed the sum of the authorized contract total and contingency amounts.

Comments, as follows and/or attached, are conditions of the above action? YES NO

SIGNED: _____

TITLE: _____

Distribution:
Signed Original Returned to Resident Engineer (FAX # 909-387-7920)
Signed Original for DISTRICT File

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: **Approval of Reduction in or Partial Release of Retainage for JPI Development Group, Inc. (Bid Package No. 15) for the Grand Terrace High School Project**

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: JPI Development Group, Inc. is requesting a reduction in or partial release of their retention from 10% to 5%. **(10%=\$493,156.10 and 5%=\$246,578.05)**

Consent of Surety to Reduction has been obtained.

Staff, WLC Architects, Inc., Architect of Record, and Vanir Construction Management, Inc. are recommending the reduction in or partial release of retainage for Bid Package No. 15 – JPI Development Group, Inc., in accordance with Specification Section 00700 – General Conditions, Article No. 9 – Progress Payment, Sub Item 9.6.1 – Payment to Contractor.

BUDGET IMPLICATIONS: No impact to the General Fund.

RECOMMENDATION: That the Board approve the reduction in or partial release of retainage for JPI Development Group, Inc. (Bid Package No. 15) for the Grand Terrace High School Project.

ACTION: On motion of Board Member _____ and _____, the Board approved the recommendation, as presented.



Construction Management, Inc.

290 North D Street / Suite 900
San Bernardino, CA 92401
TEL 909-384-1785
FAX 909-381-7534
www.vanir.com

October 25, 2010

Mr. Darryl Taylor
Director, Facilities, Planning & Construction Department
Colton Joint Unified School District
851 S. Mt Vernon Avenue
Colton, CA 92324

Pages including Cover : 6

Re: Reduction in Retention for Bid Package No.15 – JPI Development Group, Inc.
Grand Terrace High at the Ray Abril Jr. Education Complex
Bid #08-15/WLC0119800/P587A

Dear Mr. Taylor;

Enclosed, please find JPI Development Group, Inc. letter dated October 18, 2010 along with the original Consent of Surety to Reduction in or Partial Release of Retainage.

JPI Development Group, Inc. is requesting reduction in retention per (Addendum No.4) Specification Section 00700 – General Conditions, Sub Item 9.1.6 .1 Progress Payment.

Requesting consent from the Colton Joint Unified School District to allocate as an action item to the governing board agenda scheduled for the November 4, 2010 or the November 18, 2010 for the reduction in retention per California Public Contract Code 9203.

Should you have any questions or require further documentation to support the request, please do hesitate to contact me at your earliest convenience.

Respectfully,



Melinda M. Ray
Project Manager

Cc: Owen Chang – Colton Joint Unified School District
File – Outgoing Correspondence –CJUSD



Date: October 18, 2010

RE: Retention Release

Project: High School # 3-Site Utilities (Plumbing)
21800 Main Street
Grand Terrace, Ca 92313

Dear: Colton Joint Unified School District

As you are aware, we currently completed 62.7% of our contract work for the above referenced project. Based on the fact, per California Public Contract Code, Section 9203, " anytime after 50 percent of the work has been completed (on a project), if the legislative body finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed." We would like to have Colton Joint Unified School District release 5 % of the retention that is currently being held on the High School # 3-Site Utilities (Plumbing), or stop withholding retention on all future progress payments.

We realize that the district is not required to release this portion of our money. However, on most of our projects due to our reputation, quality of work, and good standing with the owner, other districts have complied with our request to release 5% of our retention to us. These other districts include Needles Unified School District, Palo Verde Unified School District, Deserts Sands Unified School District.

We look forward to hearing from you on this matter in the near future. Please let me know if there is any further information that JPI Development Group, Inc. or our bonding company needs to provide in order to expedite this request. Thank you in advance for all your assistance in this matter

Please feel free to contact me at the number above

Sincerely,


Brad Janikowski

The CONTRACTOR shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the DISTRICT concerning the work, or any portion thereof, remains uncompleted. At any time after fifty percent (50%) of the work has been completed, if the DISTRICT, by action of its governing body, finds that satisfactory progress is being made, the DISTRICT may make any of the remaining payments in full for actual work completed or may withhold any amount up to ten percent (10%) thereof as the DISTRICT may find appropriate based on the CONTRACTOR's progress.

9.6.2 PAYMENTS TO SUBCONTRACTORS

No later than seven (7) calendar days after receipt, pursuant to Public Contract Code 7107, the CONTRACTOR shall pay to each subcontractor, out of the amount paid to the CONTRACTOR on account of such subcontractor's portion of the work, the amount to which said subcontractor is entitled, reflecting percentages actually retained from payments to the CONTRACTOR on account of such subcontractor's portion of the work. The CONTRACTOR shall, by appropriate agreement with each subcontractor, require each subcontractor to make payments to sub-subcontractors in a similar manner.

9.6.3 PERCENTAGE OF COMPLETION OR PAYMENT INFORMATION

The DISTRICT will, on request, furnish to a subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the CONTRACTOR, and action taken thereon by the DISTRICT, on account of portions of the work done by such subcontractor.

9.6.4 NO OBLIGATION FOR SUBCONTRACTOR PAYMENT

The DISTRICT shall have no obligation to pay, or to see to the payment of, money to a subcontractor except as may otherwise be required by law.

9.6.5 PAYMENT TO SUPPLIERS

Payment to material or equipment suppliers shall be treated in a manner similar to that provided in paragraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 PAYMENT NOT CONSTITUTING APPROVAL OR ACCEPTANCE

An approved request for payment, a progress payment, or partial or entire use or occupancy of the project by the DISTRICT shall not constitute acceptance of work not in accordance with the contract documents.

9.6.7 JOINT CHECKS

DISTRICT shall have the right, if necessary for the protection of the DISTRICT, to issue joint checks made payable to the CONTRACTOR and subcontractors and/or material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint check payment be construed to create any contract between the DISTRICT and a subcontractor of any tier, any obligation from the DISTRICT to such subcontractor, or rights in such subcontractor against the DISTRICT.

CALIFORNIA CODES
PUBLIC **CONTRACT CODE**
SECTION 9201-9203

9201. (a) A public entity shall have full authority to compromise or otherwise settle any claim relating to a **contract** at any time.

(b) The public entity shall include provisions in a public works **contract** for timely notification of the contractor of the receipt of any third-party claim, relating to the **contract**.

(c) The public entity shall be entitled to recover its reasonable costs incurred in providing the notification required by subdivision (b).

9203. (a) Payment on any **contract** with a local agency for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement, of any kind which will exceed in cost a total of five thousand dollars (\$5,000), shall be made as the legislative body prescribes upon estimates approved by the legislative body, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the local agency, and unused. The local agency shall withhold not less than 5 percent of the **contract** price until final completion and acceptance of the project. However, at any time after 50 percent of the work has been completed, if the legislative body finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed.

(b) Notwithstanding the dollar limit specified in subdivision (a), a county water authority shall be subject to a twenty-five thousand dollar (\$25,000) limit for purposes of subdivision (a).

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5193

State of California)
County of SAN DIEGO)

On 10/20/2010 before me, DEBORAH D. DAVIS, NOTARY PUBLIC
personally appeared MATTHEW C. GAYNOR

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature of Notary

OPTIONAL SECTION
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)
- PARTNER(S) LIMITED GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

BOND NO. 2097264

CONSENT OF SURETY TO REDUCTION IN OR PARTIAL RELEASE OF RETAINAGE

Conforms with the American Institute of Architects, AIA Document G707A

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input checked="" type="checkbox"/>
OTHER	<input type="checkbox"/>

TO OWNER: COLTON JOINT UNIFIED SCHOOL DISTRICT
(Name and address) 1212 VALENCIA DRIVE
COLTON, CA 92324

ARCHITECT'S PROJECT NO:

CONTRACT FOR: SITE UTILITIES (PLUMBING)

PROJECT: HIGH SCHOOL NO. 3
(Name and address) 21800 MAIN STREET
GRAND TERRACE, CA 92313

CONTRACT DATED: March 26 2009

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the

(Insert name and address of Surety)

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
701 SOUTH PARKER STREET, SUITE 3800
ORANGE, CA 92868

, SURETY,

on bond of

(Insert name and address of Contractor)

J P I DEVELOPMENT GROUP, INC.
41205 GOLDEN GATE CIRCLE
MURRIETA, CA 92562

, CONTRACTOR,

hereby approves the reduction in or partial release of retainage to the Contractor as follows:

REDUCE RETAINAGE FROM: TEN PERCENT RETAINAGE (10%)
TO: FIVE PERCENT RETAINAGE (5%)

The Surety agrees that such reduction in or partial release of retainage to the Contractor shall not relieve the Surety of any of its obligations to

(Insert name and address of Owner)

COLTON JOINT UNIFIED SCHOOL DISTRICT
1212 VALENCIA DRIVE
COLTON, CA 92324

, OWNER,

as set forth in said Surety's bond.

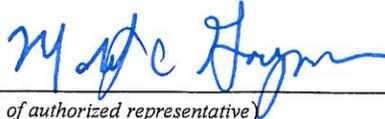
IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: October 20 2010

(Insert in writing the month followed by the numeric date and year.)

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

(Surety)

BY:



(Signature of authorized representative)

MATTHEW C. GAYNOR, ATTORNEY-IN-FACT

(Printed name and title)

Attest:
(Seal):

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Schaumburg, Illinois, each does hereby make, constitute and appoint:

JOHN G. MALONEY, HELEN MALONEY, MARK D. IATAROLA,

MATTHEW C. GAYNOR and DEBORAH D. DAVIS

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of: FIFTY MILLION (\$50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 24th of March, 2000:

RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.



By [Signature] Steven P. Anderson, President & Chief Executive Officer of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company



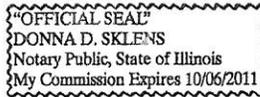
By [Signature] David M. Layman, Senior Vice President of Washington International Insurance Company & Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 22nd day of September, 2010.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Cook ss:

On this 22nd day of September, 2010, before me, a Notary Public personally appeared Steven P. Anderson, President and CEO of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and David M. Layman, Senior Vice President of Washington International Insurance Company and Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature] Donna D. Sklens, Notary Public

I, James A. Carpenter, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 20TH day of OCTOBER, 2010.

[Signature] James A. Carpenter

James A. Carpenter, Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company

BOARD AGENDA

**REGULAR MEETING
November 18, 2010**

ACTION ITEM

TO: Board of Education

PRESENTED BY: Mike Snellings, Assistant Superintendent, Student Services

SUBJECT: Approval of Resolution No. 11-21 Authorizing Participation in the South Coast Air Quality Management District's (SCAQMD) Proposition 1B School Bus Retrofit Grant for Lower-Emission Particulate Matter (PM) Trap Retrofit Program

STRATEGIC PLAN: Parameter #7

GOAL: Facility/Support Services

BACKGROUND: The grant will help lower school bus diesel emissions by providing the Colton Joint Unified School District with a PM trap and a PM trap cleaner.

The value of the grant is approximately \$31,000 and it requires no match monies from CJUSD.

BUDGET IMPLICATIONS: General Fund Revenue: \$31,000

RECOMMENDATION: That the Board approve Resolution 11-21 to participate in the South Coast Air Quality Management District's Proposition 1B School Bus Retrofit Grant for Lower-Emission Particulate Matter (PM) Trap Retrofit Program.

ACTION: On motion of Board Member _____ and _____, the Board approved Resolution No. 11-21 authorizing participation in the South Coast Air Quality Management District's (SCAQMD) Proposition 1B School Bus Retrofit Grant for Lower-Emission Particulate Matter (PM) Trap Retrofit Program.

**COLTON JOINT UNIFIED SCHOOL DISTRICT
RESOLUTION # 11-21**

**AUTHORIZATION to participate in the South Coast Air Quality Management District's
(SCAQMD) Proposition 1B School Bus Retrofit Grant for Lower-Emission Diesel
Particulate Matter (PM) Trap Retrofit Program.**

WHEREAS, the South Coast Air Quality Management District (SCAQMD) has offered the Colton Joint Unified School District a grant for diesel particulate matter (PM) traps and a PM trap cleaner;

WHEREAS, the Colton Joint Unified School District has a bus that qualifies for the PM trap and has existing traps that need to be cleaned;

WHEREAS, the Colton Joint Unified School District would not need to add any local match monies;

WHEREAS, the approximate value of the grant is \$31,000;

WHEREAS, the Colton Joint Unified School District wishes to participate in the program.

NOW THEREFORE be it resolved, that the Board of Education of the Colton Joint Unified School District of San Bernardino County, does hereby find and determine that:

1. The District will accept the SCAQMD grant for one (1) PM trap and a PM trap cleaner
2. The District will implement the project as reflected in the grant

PASSED AND ADOPTED on this 18th day of November, 2010, at the Regular Meeting by the following vote to wit:

Ayes _____
Absent _____
Noes _____
Abstained _____

ATTEST:

Secretary, Board of Education

President, Board of Education



**South Coast
Air Quality Management District**

**Lower-Emission School Bus PM Trap Retrofit Program
GRANT AWARD AGREEMENT
Pursuant to Program Announcement PA 2009-01
2009 State Proposition 1B Funding Program¹
Fiscal Year 2009-10**

Your grant application to purchase and install Particulate Matter ("PM") traps on diesel school buses listed in Attachment A ("Project") has been approved for funding by the South Coast Air Quality Management District ("AQMD") Governing Board. The funding is being provided under the 2009 State Proposition 1B Funding Program.

As a condition of this grant award, you must comply with all the terms and conditions set forth in this Grant Award Agreement, including those described in Attachment A (List of School Buses to be Retrofitted), Attachment B (CARB Mandated Reporting Data on School Bus Retrofits), Attachment C (Program Announcement PA 2009_01 issued on July 11, 2008) and the 2008 CARB School Bus Guidelines dated April 15, 2008, which are incorporated herein as part of this Agreement.

Grant Recipient ("Grantee")	Colton Joint Unified School District
Grant Number	G09225
Total Number of PM Traps Awarded (only 1994 and newer school buses are eligible for retrofits)	Up to One (1) PM traps
(a) Grant for Active PM Traps²	Up to \$16,000
Total Number of PM Trap Cleaners Awarded	Up to One (1)
(b) Grant for Maintenance (PM trap cleaners, thermal regenerator, electrical infrastructure and/or data logging)³	Up to \$15,000 (max \$13,000 per cleaner or thermal regenerator)
Total Grant Awarded (a)+(b)	Up to \$31,000
Date by Which PM Traps Need to be Installed	April 30, 2011
Date by Which Cleaner Needs to be Installed	October 29, 2010
Date by Which All Invoices Need to be Submitted	May 28, 2011
Agreement Term & Date to Which All Records (relating to this Grant) Need to be Retained	Until June 30, 2018

¹ Proposition 1B--the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Measure was approved by the California electorate at the ballot box on November 7, 2006. Prop 1B, among other elements, provided for school bus funding. The California Air Resources Board (CARB) allocated \$70.1 million to South Coast AQMD, of which \$44.8 million has been released.

² may install a new PM trap technology, approved by CARB, that uses an automatic diesel fuel injection to regenerate these traps, as long as the total cost (including installation, electrical and maintenance) is below \$18,500 per PM trap.

³ PM Trap Cleaners are funded in part with grant money from the U.S. Environmental Protection Agency. As such, GRANTEE agrees to comply with the applicable provisions of 40 CFR Chapter 1, Subchapter B.

1. PARTIES - The parties to this Grant Award Agreement ("Agreement") are the South Coast Air Quality Management District ("AQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and Colton Joint Unified School District ("GRANTEE") whose address is 451 North 3rd Street, Colton, CA 92324.
2. PROJECT MILESTONES – GRANTEE must purchase and install all the awarded PM traps and PM trap cleaning equipment, if applicable, by **April 30, 2011**. The PM traps must have been verified by the CARB to **Level III Plus** to achieve a minimum of 85% reduction in PM. GRANTEE must install said PM traps in the school buses listed in Attachment A. GRANTEE must buy PM trap cleaning equipment using the PM trap maintenance funds. Documentation required for payment of grant funds to GRANTEE or vendor must be received by AQMD by **May 28, 2011**. See Clause 10 below for a complete list of the required documents.
3. ENFORCEMENT – AQMD, CARB and the U.S. Environmental Protection Agency (EPA) have the authority to enforce the terms of this Agreement at any time during the Agreement term. AQMD, CARB and EPA will seek whatever legal, equitable and other remedies are available for the GRANTEE'S failure to comply with the terms of this Agreement or with the Lower-Emission School Bus Program requirements incorporated herein.
4. AGREEMENT TERM – The term of this Agreement is from the date of execution by both parties to **June 30, 2018**, unless further extended by amendment of this Agreement in writing. No work shall commence until this Agreement is fully executed by all parties. Notwithstanding the above end dates, the Agreement term shall encompass both the Project completion and Project implementation/life periods, whichever is longer, to ensure that the AQMD, CARB and EPA can fully enforce the Agreement during the life of the Lower-Emission School Bus Program-funded project. The Project must comply with the 2008 CARB Lower-Emission School Bus Program Guidelines⁴ and any amendments thereto, and must meet all Program requirements for the full agreement term.
 - A. Project Completion – Project completion is the timeframe starting with the date of Agreement execution by both parties to the date the project becomes operational. This includes the time period when the equipment is ordered, delivered and installed. The project becomes operational on the date the final invoice payment is made by AQMD or **June 30, 2011**, whichever is later.
 - B. Project Implementation/Life – The project implementation timeframe is five years from the date of project completion (date when final invoice payment is made by AQMD); in this case until **June 30, 2016**. GRANTEE must own and operate the retrofitted bus for a minimum of five years or until **June 30, 2016**, whichever is later.
5. NON-COMPLIANCE – AQMD reserves the right to cancel this Agreement or withhold payment for GRANTEE'S non-compliance with the Agreement. Further, AQMD reserves the right to cancel the

⁴ These Guidelines and subsequent CARB advisories are available at the following CARB Web link:
<http://arb.ca.gov/bonds/schoolbus/guidelines/2008lesbp.pdf>

Agreement if it is not executed by GRANTEE within 45 days of receipt of this grant by the GRANTEE.

6. AUDIT RIGHTS – AQMD, CARB, the California Department of Finance, and the EPA, or their designee(s), shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. GRANTEE agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. GRANTEE must include a similar right of the State, AQMD and EPA to audit records and interview staff in any subcontract related to the performance of this Agreement.
7. RECORDS AND RECORDS RETENTION – GRANTEE shall maintain all records related to this Project and retain these records for the Agreement term (June 30, 2018). These records include, but are not limited to, the following:
 - A. Application;
 - B. Resolution from the school district governing board (or other documentation signed by a duly authorized official) authorizing the submittal of the application and identifying the individual authorized to implement the retrofit project;
 - C. Vendor quotes for PM traps, PM trap cleaners and electrical infrastructure;
 - D. Purchase orders issued by GRANTEE;
 - E. Executed contracts;
 - F. Invoice(s);
 - G. Proof of payment;
 - H. A copy of the Safety Compliance Report/Terminal Record Update (CHP 343) or a copy of the Vehicle/Equipment Inspection Report Motor Carrier Safety Operations form (CHP 343A) for each school bus retrofitted;
 - I. A copy of the CARB retrofit device verification executive order for the device that was funded;
 - J. Maintenance records; and
 - K. Documentation in the form of invoices or purchase orders that include dates of installation and maintenance, description of services performed and cost of services.
8. ON-SITE INSPECTIONS – AQMD, CARB and EPA, or their designee(s), shall have the right to inspect the retrofitted bus(es) and maintenance equipment during the entire Agreement term.
9. CHP SAFETY INSPECTION – Each retrofitted bus must undergo a CHP safety certification inspection (per Title 13, Cal. C. Regs. § 1272(c)) after the installation of the PM trap and prior to the bus's return to service. GRANTEE must obtain a copy of written documentation from CHP personnel that the retrofitted bus is still structurally acceptable to safely transport students and provide this documentation to AQMD. This documentation shall consist of a copy of a Safety Compliance Report/Terminal Record Update (CHP 343), or a copy of a Vehicle/Equipment Inspection Report Motor Carrier Safety Operations form (CHP 343A).
10. INVOICE AND PAYMENT – Before a Lower-Emission School Bus Program payment is made to a vendor or to GRANTEE, this Agreement must be executed and the following documentation must be received by AQMD no later than **May 28, 2011**:

- A. An invoice with breakdown of costs between parts and labor verifying purchase and installation of PM traps on each school bus listed in Attachment 1.
- B. If PM trap cleaning equipment is installed, a separate invoice including a similar breakdown of costs between parts and labor, and a cover letter as explained below in C.
- C. A cover letter signed under penalty of perjury by the GRANTEE'S Director of Transportation, or his/her equivalent, which must contain the following:
 - i. Details of the bus(es) that were retrofitted with PM traps. [To prevent delay in processing the invoices, GRANTEE must verify that the Vehicle Identification Numbers (VINs) and other details of the bus(es) listed on the invoice identically match the VINs of the bus(es) listed in Attachment A of this Agreement];
 - ii. Confirmation that the PM trap cleaning equipment and electrical infrastructure was purchased and installed; and
 - iii. Instruction to AQMD to pay the vendor(s) directly. AQMD prefers that each vendor bill AQMD directly. If GRANTEE pays a vendor directly and seeks reimbursement from AQMD, GRANTEE must submit copies of the front and back of all cancelled check(s) paid to vendor, along with the request to pay the GRANTEE directly.
 - iv. Confirmation of existing number of buses with PM traps and electrical charging outlets, and
 - v. Confirmation of the number of additional electrical outlets installed under this Grant.
- D. A copy of front page of this Agreement that lists the Summary Table and Grant #.
- E. A copy of Attachment A to this Agreement, identifying and highlighting the buses that were retrofitted with PM traps. VIN(s) and details of the buses listed on the submitted invoice(s) must match those in Attachment A.
- F. Copies of warranties provided for each PM trap installed;
- G. Copy of the Purchase Order(s) issued by the GRANTEE (School District) to the Installer and Electrician.
- H. A copy of the DMV certificate of the school bus retrofitted with the PM trap.
- I. For each retrofitted school bus, a copy of a completed CHP form 343-Safety Compliance Report/Terminal Record Update, or a copy of a completed CHP form 343A-Vehicle/Equipment Inspection Report Motor Carrier Safety Operations.
- J. Two electronic files to be sent to Mr. Ranji George that includes (a) PDF scan of the whole invoice package, and (b) an Excel Worksheet that lists the bus information required in Attachment B.

Please submit all documentation to Ms. Drue Ann Hargis, TAO Contracts, AQMD, 21865 Copley Drive, Diamond Bar, CA 91765. All documentation described above must be received no later than **May 28, 2011**.

11. OWNERSHIP AND OPERATION

- A. GRANTEE shall accrue at least 75% of each vehicle's annual mileage or engine hours of operation within the geographical boundaries of the AQMD.
- B. GRANTEE is prohibited from removing the retrofitted school bus(es) from service in California during the term of this Agreement, unless the retrofitted school bus(es) become inoperable through mechanical failure of components or systems, and cannot be repaired or replaced, and such failure is not caused by GRANTEE'S negligence, misuse or malfeasance.

- C. GRANTEE must own and operate the retrofitted bus(es) for a minimum of five years, or until June 30, 2016, whichever is later.
12. MAINTENANCE – GRANTEE shall operate and maintain the installed PM traps funded under this Agreement in accordance with the manufacturer's specifications for the life of the Project. GRANTEE acknowledges that no tampering with the installed PM traps is permitted. Further, GRANTEE must have the PM traps cleaned periodically (also known as "periodic maintenance" and "baking and de-ashing") throughout their estimated 11-year life, or if a bus is kept for less than 11 years, as long as GRANTEE owns and operates the retrofitted bus(es).
13. FUEL ADDITIVES – GRANTEE must use only the generally available, low sulfur (15 ppm or lower) diesel fuel in all the buses retrofitted with PM traps. The fuel must not contain any fuel or lube oil additives, per CARB regulations, unless specially identified as allowable in the engine certification executive order.
14. PURCHASE ORDER AGREEMENTS – GRANTEE must incorporate the minimum grant requirements described in Appendix C of the 2008 CARB Guidelines to Lower-Emission School Bus Program applicable to this Project in purchase order agreements with vendors.
15. REPORTING REQUIREMENTS - During the term of this Agreement, GRANTEE agrees to provide periodic reports to AQMD on the implementation of this award, including but not limited to, entering detailed information in AQMD and/or CARB's School Bus Database on the control device and each school bus that is retrofitted under this Award. GRANTEE will require its Vendor to cooperate in providing these reports. AQMD will specify the frequency and format of these reports.
16. NOTICES – Any notices from either party to the other shall be given in writing to the attention of the persons listed below, or to other such addresses or addressees as may hereafter be designated in writing for notices by either party to the other. Notice shall be given by certified, express or registered mail, return receipt requested, and shall be effective as of the date of receipt indicated on the return receipt card.

AQMD: South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765-4178
Attn: Ms. Drue Ann Hargis

GRANTEE: Colton Joint Unified School District
451 North 3rd Street
Colton, CA 92324
Attn: Bill Marecek, Vehicle Maintenance Supervisor

The undersigned parties agree to the terms and conditions as set forth in this Agreement. The undersigned parties certify under penalty of perjury that they are duly authorized to bind the parties to this Agreement.

GRANTOR:

South Coast Air Quality Management District

GRANTEE:

Colton Joint Unified School District

By: _____
Dr. William A. Burke
Chairman of the Governing Board

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

ATTEST:
Saundra McDaniel, Clerk of the Board

By: _____

APPROVED AS TO FORM:
Kurt R. Wiese, General Counsel

By:  _____

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ACTION ITEM
Second Reading

TO: Board of Education

PRESENTED BY: Jerry Almendarez, Superintendent

SUBJECT: **Approval of Adoption of Board Policies and Administrative Regulations:**
BP 2000 Series – Administration

GOAL: Community Relations

STRATEGIC PLAN: Strategy #1 – Communication

BACKGROUND: The Administration is updating Board Policies and Administrative Regulations under the guidelines of the California School Boards' Association. The following matrix outlines the proposed policies and states the recommendation for each policy and regulation.

The proposed and existing board policies and administrative regulations along with the recommendations will be made available at the Board of Education Meeting.

RECOMMENDATION: That the Board approve the adoption of Board Policies and Administrative Regulations:
BP 2000 Series – Administration

ACTION: On motion of Board Member _____ and _____ the Board approve the adoption of the Board Policies and Administrative Regulations, as presented.

BOARD POLICY AND ADMINISTRATIVE REGULATION RECOMMENDATIONS

2000 SERIES – ADMINISTRATION

PROPOSED BOARD POLICY / ADMINISTRATIVE REGULATION	EXISTING POLICY TO BE REPLACED	RECOMMENDATION	BEGINNING ON PAGE NUMBER
2000 – Concepts and Roles	1400 – Superintendent as Advisor to the Board 1405 – Superintendent as Representative to the Board 2030 – Acting Superintendent 2040 – District Administrative Organization 2050 – The Management Team 2060 - Superintendent’s Cabinet	Replace board policies 1400, 1405, 2030, 2040, 2050 and 2060 with revised and renumbered policy 2000 – Concepts and Roles.	7
2110 – Superintendent Responsibilities and Duties	1390 – Powers and Duties of the Superintendent 1395 – Delegation of Administrative Duties 2040 – District Administrative Organization 2050 – The Management Team 2060 - Superintendent’s Cabinet	Replace board policies 1390, 1395, 2040, 2050 and 2060 with revised and renumbered policy 2110 – Superintendent Responsibilities and Duties.	19
2111 – Superintendent Governance Standards	1350 – General Functions of the Board and Superintendent	Replace board policy 1350 with revised and renumbered policy 2111 – Superintendent Governance Standards.	29
2120 – Superintendent Recruitment and Selection	1285 – Appointment of the Superintendent 1430 – Selection of Superintendent	Replace board policies 1285 and 1430 with revised and renumbered policy 2120 – Superintendent Recruitment and Selection.	31
2121 – Superintendent’s Contract	1435 – Tenure of the Superintendent	Replace board policy 1435 with revised and renumbered policy 2121 – Superintendent’s Contract.	35
2140 – Evaluation of the Superintendent	1425 – Evaluating the Superintendent’s Work	Replace board policy 1425 with revised and renumbered policy 2140 – Evaluation of the Superintendent.	37
2210 – Administrative Discretion Regarding Board Policy	Not Applicable	Policy to be adopted as a new policy.	39
2230 – Representative and Deliberative Groups	2030 – Acting Superintendent 2040 – District Administrative Organization 2050 – The Management Team 2060 - Superintendent’s Cabinet	Replace board policies 2030, 2040, 2050 and 2060 with revised and renumbered policy 2230 – Representative and Deliberative Groups.	41

BOARD POLICY AND ADMINISTRATIVE REGULATION RECOMMENDATIONS

2000 SERIES – ADMINISTRATION

POLICIES RECOMMENDED FOR REPEAL PREVIOUS 2000 SERIES – ADMINISTRATION	RECOMMENDATION
2020 – Conference Attendance – Administrative/Management Personnel	Repeal policy, language is incorporated into BP 4331 -
2070 – Residence of Administrators	Repeal policy, practice no longer in effect.
2080 – Compliance with Compulsory Education Requirements	Repeal policy, language is incorporated into BP 5112.1

BOARD AGENDA

REGULAR MEETING
November 18, 2010

ADMINISTRATIVE REPORT

TO: Board of Education

PRESENTED BY: Jaime R. Ayala, Assistant Superintendent, Business Services Division

SUBJECT: Approved Change Order for the Bloomington High School New Math & Science Building Increment One: Demolition & Rough Grading Project (Project 1E) per Board Resolution No. 10-20

GOAL: Facilities / Support Services

STRATEGIC PLAN: Strategy #4 – Facilities

BACKGROUND: The table below provides the change order history log.

<u>Contractor</u>	Contract Amount	Add	Credit	Cumulative % To Date
AMPCO Contracting, Inc.	\$84,000.00			
Change Order No. 1			\$12,847.50	-0.15 %

Change Order # 01-001 Detail: (\$12,847.50)

1. Remove light bulbs at Buildings 314 and 315.
2. Remove additional sidewalk on ramp at entrance.
3. Remove unforeseen underground piping.
4. Install temporary 2" PVC irrigation line.
5. Credit the District for unused allowance.

BUDGET IMPLICATIONS: Bond Fund 21, Measure G Credit: \$12,847.50

AR 8.1

